SENATE.

THURSDAY, *May 3, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

MILITIA ORGANIZATIONS IN CIVIL WAR.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 18th ultimo, a report from the Military Secretary of the Army, containing a list, arranged by States, showing which of the military organizations accepted into the service of the United States during the civil war were so accepted as militia organizations; which, with the accompanying papers, was referred to the Committee on Military Affairs, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 18030. An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1907, and for other purposes; and

H. R. 18537. An act making apropriations for the Department of Agriculture for the fiscal year ending June 30, 1907.

PETITIONS AND MEMORIALS.

Mr. SCOTT presented a memorial of Bluestone Council, No. 110, United Commercial Travelers of America, of Bluefield, W. Va., remonstrating against the enactment of legislation to consolidate third and fourth class mail matter; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of sundry pharmacists and physicians of Jefferson County, W. Va., praying for the adoption of certain amendments to the present patent law; which was referred to the Committee on Patents.

Mr. SMOOT presented a petition of sundry citizens of the State of Utah, praying for the enactment of legislation to consolidate third and fourth-class mail matter; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. GALLINGER presented a petition of the Board of Wardens of the Village Improvement Society, of Franklin, N. H., praying for the enactment of legislation to prevent the impending destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which was referred to the Committee on Foreign Relations.

He also presented a petition of the Board of Wardens of the Village Improvement Society, of Franklin, N. H., praying for the enactment of legislation to establish national forest reserves in the Southern Appalachian and White Mountains; which was ordered to lie on the table.

He also presented a petition of sundry citizens of Washington, D. C., and the petition of Donald MacPherson, of Washington, D. C., praying for the enactment of legislation to regulate the operation of street railways in the District of Columbia; which were referred to the Committee on the District of Columbia.

He also presented a petition of the North Capitol and Eckington Citizens' Association, of Washington, D. C., praying for the enactment of legislation to require street railway companies in the District of Columbia to sprinkle along their tracks; which was referred to the Committee on the District of Columbia.

He also presented sundry papers to accompany the bill (S. 5802) to correct the military record of Mirick R. Burgess; which were referred to the Committee on Military Affairs.

Mr. BURKETT presented sundry affidavits to accompany the bill (S. 5602) granting an increase of pension to Alexander Brady; which were referred to the Committee on Pensions.

Mr. STONE presented a petition of sundry citizens of St. Louis, Mo., praying for the enactment of legislation to remove the duty on denaturized alcohol; which was referred to the Committee on Finance.

He also presented a petition of Colonel Louis A. Craig Camp, Army of the Philippines, of Kansas City, Mo., praying for the enactment of legislation granting special medals to officers and enlisted men who served beyond their legal enlistment in the war with Spain; which was referred to the Committee on Military Affairs.

He also presented a petition of Frank P. Blair Post, No. 1, Department of Missouri, Grand Army of the Republic, of St. Louis, Mo., praying for the enactment of legislation providing for the purchase of the Wilsons Creek battlefield, in that State, for use as a national park; which was referred to the Committee on Military Affairs.

He also presented a petition of St. Louis Chapter, American Institute of Architects, of St. Louis, Mo., praying for the enactment of legislation to remove the duty on works of art; which was referred to the Committee on Finance.

He also presented a memorial of Local Division No. 338, Amalgamated Association of Street and Electric Railway Employees, of Springfield, Mo., remonstrating against the repeal of the present Chinese-exclusion law; which was referred to the Committee on Immigration.

He also presented sundry petitions of citizens of St. Louis, Mo., praying for an investigation into the existing conditions in the Kongo Free State; which were referred to the Committee on Foreign Relations.

He also presented a memorial of Ozark Council, No. 58, United Commercial Travelers of America, of Springfield, Mo., and a memorial of sundry citizens of St. Louis, Mo., remonstrating against the enactment of legislation to consolidate third and fourth class mail matter; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. DOLLIVER presented sundry papers to accompany the bill (S. 423) to recognize the military services of George R. Burnett, late first lieutenant, Ninth United States Cavalry; which were referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. LODGE, from the Committee on Military Affairs, to whom was referred the bill (S. 2241) granting an honorable discharge to Benjamin F. Helmick, reported adversely thereon, and the bill was postponed indefinitely.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 3728) granting a pension to William H. Winans; and

A bill (S. 2179) granting an increase of pension to S. Annie Gregg.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 3649) granting a pension to Sarah Agnes Sullivan; and

A bill (S. 3270) granting an increase of pension to William H. Richardson.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 17586) granting a pension to Harriet A. Morton; and

A bill (H. R. 17085) granting an increase of pension to George W. Olis.

Mr. DOLLIVER, from the Committee on Education and Labor, to whom was referred the bill (S. 5665) to regulate the employment of child labor in the District of Columbia, reported it with an amendment, and submitted a report thereon.

Mr. HEMENWAY, from the Committee on Military Affairs, to whom was referred the bill (H. R. 11543) to correct the military record of Benjamin F. Graham, reported it with amendments, and submitted a report thereon.

BILLS INTRODUCED.

Mr. PENROSE introduced a bill (S. 6005) granting an increase of pension to John G. Bridaham; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6006) granting an increase of pension to William H. Crouch; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ALGER introduced a bill (S. 6007) to correct the military record of John J. Waters; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. McCUMBER introduced a bill (S. 6008) granting an increase of pension to Joseph Lamont; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. SCOTT introduced a bill (S. 6009) for the relief of St. John's Episcopal Church, of Charleston, W. Va.; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced a bill (S. 6010) for the relief of Hector Bell; which was read twice by its title, and referred to the Committee on Claims.

Mr. BURKETT introduced a bill (S. 6011) granting an increase of pension to Isaiah De Puy; which was read twice by

its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. MONEY introduced a bill (S. 6012) for the relief of James H. Shannon; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6013) for the relief of Julia D. Harris, administratrix of the estate of Stephen Daggett, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6014) for the relief of the estate of Emanuel M. Solari, deceased; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. MORGAN introduced a bill (S. 6015) to carry out the findings of the Court of Claims in the case of Mrs. Frances A. Moore; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced a bill (S. 6016) for the relief of Le Vert & Masten; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. STONE introduced a bill (S. 6017) granting an increase of pension to Elizabeth F. Snyder; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6018) granting an increase of pension to Henry Pensinger; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 6019) granting a pension to Harriet O'Donald; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 6020) for the relief of Clay Taylor; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6021) for the relief of the estate of Charlotte A. Armstrong, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. ALDRICH introduced a bill (S. 6022) to amend section 6 of an act entitled "An act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes," approved March 14, 1900; which was read twice by its title, and referred to the Committee on Finance.

Mr. McCUMBER introduced a bill (S. 6021) to amend section 21 of chapter 252 of the act approved May 28, 1896, entitled, "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1907, and for other purposes;" which was read twice by its title, and, with the accompanying paper, referred to the Committee on Appropriations.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I submit an amendment to the rate bill. I ask that it be read.

The amendment was read, and ordered to lie on the table and to be printed, as follows:

In section 4, on page 11, at the end of line 9, add:

"If such court shall find that the order was beyond the authority of the Commission or was a violation of the constitutional rights of the carrier it shall issue an injunction against the enforcement thereof: *Provided, however,* That no such injunction shall be issued as a preliminary or interlocutory proceeding."

Mr. STONE submitted an amendment intended to be proposed by him to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission; which was ordered to lie on the table, and be printed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. ANKENY submitted an amendment proposing to appropriate $750 to reimburse John M. Hill, late register of the United States Land Office at Walla Walla, Wash., for clerk hire, etc., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate $9,000 for paving South Carolina avenue from Thirteenth street to Fifteenth street SE., intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

HEARINGS BEFORE COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS.

Mr. SCOTT submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Public Buildings and Grounds hereby is authorized to employ a stenographer to take hearings upon such matters as may be referred to the committee for its consideration, the expense to be paid from the contingent fund of the Senate.

FOREIGN-BUILT DREDGES.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 395) concerning foreign-built dredges, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. GALLINGER. I move that the Senate insist upon its amendments, agree to the conference asked by the House of Representatives, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice-President appointed Mr. FRYE, Mr. GALLINGER, and Mr. BERRY as the conferees on the part of the Senate.

PROPOSED INVESTIGATION OF METROPOLITAN POLICE.

The VICE-PRESIDENT. The morning business is closed. The Chair lays before the Senate a resolution coming over from a previous day.

The SECRETARY. Senate resolution 126, by Mr. TILLMAN——

Mr. TILLMAN. I should like to have the resolution go over and lie on the table without losing its place or its rights until such time as I see fit to call it up.

The VICE-PRESIDENT. Without objection, it is so ordered.

HOUSE BILLS REFERRED.

H. R. 18030. An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1907, and for other purposes, was read twice by its title, and referred to the Committee on Military Affairs.

H. R. 18537. An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907, was read twice by its title, and referred to the Committee on Agriculture and Forestry.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I ask that the unfinished business be laid before the Senate.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. NELSON. Mr. President, in the remarks I made in the earlier stages of the consideration of the pending bill I expressed some doubts about the right of Congress to deprive the courts of the power of issuing preliminary or temporary or interlocutory injunction. Since then I have given the question more thought and consideration, and I propose briefly to state the reasons why I conceive Congress has not the right to deprive the courts of that power, and I shall do it in as brief and concise terms as possible.

Can courts of equity in a case in equity of which they have jurisdiction be divested of the power to grant relief by temporary injunction in a case justifying such relief according to the established principles of equity? This is, in substance, what is involved in the amendment and the contention of the Senator from Texas. And as he bases his claim and contention upon the power of Congress to withhold jurisdiction, in whole or in part, from the inferior courts, I shall briefly discuss the subject in a general way before coming down to the ultimate point in controversy.

Under the Constitution, "the judicial power of the United States is vested in one Supreme Court and in such inferior courts as Congress may from time to time ordain and establish." This paragraph vests the judicial power in two kinds of courts, to wit, a Supreme Court and inferior courts, but neither of these courts could well exist without the affirmative action of Congress. There could not well be a Supreme Court until Congress prescribed the constituent elements of the court—that is to say, the number of judges—for the Constitution is silent on that point. While the President can appoint the judges, the power is not committed to him to determine whether the court shall consist of one or more judges, or, if more than one, of how many. And hence we find the judiciary act of 1789 prescribing that the court "shall consist of a chief justice and five associate justices." The act of 1802 added another associate justice, and by the act of 1837 two additional associate justices were added, making eight in all—the present composition of the court. Without such legislation there could not well be a Supreme Court.

If Congress could allow the power to establish inferior courts to remain dormant, so it could also allow the power of prescribing and defining the composition of the Supreme Court to remain dormant, and thus through legislative inaction the whole judi-

cial power of the United States would be in abeyance, and one great department of the Government would not be put in operation. In a limited class of cases the original jurisdiction is with the Supreme Court; in all other cases it is in the inferior courts to be established by Congress. Congress has not only the power to create these inferior courts, but also the power to prescribe the cases over which they shall have jurisdiction.

After the Supreme Court has been established Congress can not deprive it of its original jurisdiction, but it can deprive it of all appellate jurisdiction by failing to establish inferior courts.

Congress can not only allow the judicial power to lapse and be dormant by failing to establish inferior courts, but it can also allow the larger share of this power to lapse and be dormant by failing to vest such inferior courts with jurisdiction in a large class of cases, and so a large portion of the judicial power would be in abeyance, and thus the judicial department would be to a large extent dismantled and to that extent the people of this country would be deprived of the inalienable right, which pertains to every free, civilized, and enlightened government, to have their controversies settled and adjusted by peaceful methods rather than by brute force and violence, as in the primitive state of our race.

The Constitution of the United States is not a self-executing instrument. It is only a people, able, willing, and ready to accept and act under its provisions, that can breathe life into it and make it a living reality. The people might refuse to elect Senators and Representatives in Congress, or Senators and Representatives might refuse to meet and act. In either case the legislative power would be in abeyance, and the legislative department would be entirely dormant. So the people might refuse to elect a President and Vice-President, or these officials or any of those in whom the Presidential succession would vest might refuse to serve. In either case the executive department would be vacant, and to that extent the Government would be dismantled.

While the mere physical power exists to do all these things that I have mentioned, it would be a most violent presumption to assume that such power would be exercised to the extent I have suggested, for it would amount to a dismantlement of our Government. It would involve a gross violation of legal and moral duty—such a violation of duty as is foreign to the people, the officials, and the institutions of this country.

"The judicial power of the United States *shall be vested in one Supreme Court and in such inferior courts* as the Congress may from time to time ordain and establish. * * * The judicial power *shall extend to all cases in law and equity* arising under this Constitution, the laws of the United States, and treaties made," etc. These are the mandates of the Constitution to us as legislators. "The judicial power shall extend to all cases in law and equity," etc. And this power can not be thus extended unless we create "such inferior courts" and vest in them the jurisdiction, minus the original jurisdiction of the Supreme Court, of "all cases in law and equity arising under this Constitution," etc.

For us as legislators to refuse or neglect to put this power of the Constitution into effective operation is to refuse and neglect to perform our moral and legal duty. When we enter upon our duties in this Chamber, we take an oath to support the Constitution of the United States and to faithfully discharge the duties of our office. We do not support the Constitution of the United States and we do not faithfully discharge our duties if we allow a material portion of the judicial power of the United States to remain dormant and in abeyance, and thus deprive the people of the United States of a part of the judicial remedies which the Constitution accords them.

We may have the physical power, but we have not the moral or legal right to deprive the people of this country of a tribunal in which "all cases in law and equity arising under the Constitution, etc.," can be tried and determined.

Mr. President, I do not make these observations because Congress has failed to provide the proper courts and to equip them with the requisite jurisdiction. Congress has, except in a class of minor cases, invested the circuit court with ample original jurisdiction. It has extended to this court the judicial power contemplated by the Constitution. I have made these remarks rather in response to the general contention and argument of the Senator from Texas.

But coming to the precise point and gist of the amendment of the Senator from Texas and his argument in support thereof, as I understand it, it is this:

He would confer upon the circuit court of the United States the right, by an original suit in equity, to review the action and order of the Commission, but he would withhold from the court the power to grant a temporary injunction in such a case.

To show where this contention would lead to we must recur to the Constitution. That instrument uses the terminology of the common law as it existed when the Constitution was framed. Thus, all criminal cases must be tried by a jury, and suits at common law, where the matter in dispute exceeds $20, must be tried by a jury. Now, the Constitution does not describe of what a jury consists, or what the term "verdict" implies. To ascertain these facts we recur to the common law, and there we find that a jury consists of twelve men and that the verdict must be unanimous instead of a mere majority. So the Constitution declares that "the judicial power shall extend to all cases in law and equity." Now, the Constitution does not define what a "case in law" is, or what a "case in equity" is, nor what the difference is between the two. To ascertain these facts we must recur to the common law and equity jurisprudence prevailing at the time the Constitution was framed. As all lawyers know, there was then, and still is, a deep and broad difference between the two classes of cases, and this difference is so pronounced that even in those States where both classes of cases are tried in the same court, upon the same form of pleading, and in the same action—which is not the case in the courts of the United States—the real distinction between the two classes of cases has not been obliterated, especially in the matter of relief sought and accorded. As to this, the distinction still remains.

A United States court trying a case in equity sits as a court of equity and administers equitable relief. A court of equity, from the very inception of equity jurisprudence, not only granted relief by a permanent injunction, but also by a temporary injunction. The latter was oftentimes necessary to make the former of any value. There were many cases where it was necessary, in order to give proper and effective final relief, that the property, or subject of litigation, should be preserved intact until the final disposition of the case, for without such temporary stay the final relief might prove abortive or incomplete, and it might be impossible to restore the parties to that condition in respect of the subject of litigation, which the court, by its final decree, might determine to be just and proper.

Judge Story in his commentaries on equity jurisprudence points out the distinction between cases in equity and at common law in the following language:

> In England and in the American States, which have derived their jurisprudence from that parental source, equity has a restrained and qualified meaning. The remedies for the redress of wrongs and for the enforcement of rights are distinguished into two classes. First, those which are administered in courts of common law; and secondly, those which are administered in courts of equity. Rights which are recognized and protected, and wrongs which are redressed by the former courts are called legal rights and legal injuries. Rights which are recognized and protected, and wrongs which are redressed by the latter courts only are called equitable rights and equitable injuries. The former are said to be rights and wrongs at common law, and the remedies therefor are remedies at common law; the latter are said to be rights and wrongs in equity, and the remedies therefor are remedies in equity. * * * The remedies in courts of equity are often very different in their nature, mode, and degree from those of courts of common law, even when each has a jurisdiction over the same subject-matter.

Relief by injunction is one of the remedies frequently invoked and accorded in cases in equity. Its object is to prevent rather than to redress a meditated or threatened wrong, and it is oftentimes of as much importance to grant the relief during the pendency of the suit as at the end of the final hearing, especially where the litigation may be prolonged. The object of an interlocutory injunction is to preserve the "status quo," to maintain the subject of litigation intact, so that the final relief may not prove abortive. Justice Miller, in the case of the United States *v.* Duluth (1 Dillon, 469), lays down the rule in such cases as follows:

> When the danger or injury threatened is of a character which can not be easily remedied if the injunction is refused, and there is no denial that the act charged is contemplated, the temporary injunction should be granted, unless the case made by the bill is satisfactorily refuted by the defendant.

In a case in equity the court has the power, where the facts warrant, to grant relief by interlocutory as well as by final injunction. Both forms of remedy may be essential and necessary in many cases in order to afford complete and adequate relief.

In its ultimate analysis, the Senator from Texas, while he proposes to give a court of equity jurisdiction of a case in equity, to wit, a case reviewing the action of the Commission, yet he also proposes that the court shall only have power to grant a part of the equitable relief that pertains to such a case. In other words, while he would give the court jurisdiction of the case, he would say to the court that, while you may try and determine this case, yet there is a part of the equitable relief which under the well-known principles of equity jurisprudence appertains to such a case I will not permit you to

grant. And this is nothing more than dictating to the court the amount of relief it shall be privileged to grant. And clearly this would be unconstitutional, for it would be a denial of "due process of law," prohibited by the fifth amendment to the Constitution. While it might be possible, by legislation, to withhold jurisdiction from the court of such a case, yet after jurisdiction has once been conferred, it is not in the power of Congress to limit the court in the relief which it may grant. Congress may confer or withhold jurisdiction of a given case or given class of cases, but when once jurisdiction of a case is conferred upon an appropriate court that court becomes possessed of the full judicial power of the United States over that case, be it an action at law or a suit in equity; and that power as to a case in equity includes the power to give not merely limited or partial relief, but to give every form of equitable relief which was in vogue and prevailed when the Constitution was adopted.

The judicial power over a case within the jurisdiction of the court can not be circumscribed or limited by any action of Congress.

There is, besides what I have already urged, another constitutional restraint upon us in this matter. It is conceded on all sides that we can not permanently deprive the carrier of his property without just compensation, and if we can not do it permanently, manifestly we have not the right, by legislation, to deprive the carrier of such compensation for a limited time; and to deprive the court of the power to grant a temporary or interlocutory injunction might, in such a case, deprive the carrier of his property without just compensation during the pendency of the case, be the time long or short.

To my mind it seems clear, and I have sought to reach a different conclusion, that the proposed amendment of the Senator from Texas, so far as it attempts to withhold from the court the power of granting a temporary or interlocutory injunction, is, both under Article III of the Constitution and the fifth amendment, manifestly unconstitutional, and therefore should not be ingrafted upon the bill. I can readily see how the carriers are likely to resort to this remedy in many cases, and how courts, through ignorance, indifference, or sympathy, may be swift and reckless in granting such relief, and therefore I should be very glad indeed if it were in our power to prevent such recourse to the courts, for I realize how many Commission rates may be thus temporarily hung up and placed in abeyance by the courts. Yet baneful and discouraging as all this may be, I can not see my way clear to do what I conceive the Constitution forbids me to do.

While there are many reforms in the matter of rate regulation that seem necessary and urgent to the public and to those who have their welfare at heart, that are not included in this bill, yet as the great system of "common law" was built up gradually and by piecemeal, so in this matter of statutory reform of rate regulation we can not expect or hope to effect complete reform at one bound. We shall have to accomplish the task gradually and by piecemeal.

This bill accomplishes two great reforms, two great results. First of all, it invests the Commission for the first time with the rate-making power—the vital and controlling principle of all rate regulation. Second, by the broad definition given of the term "transportation" it eliminates many schemes and methods by which extra and unreasonable rates and charges are imposed. These are great reforms. And if we can give the people these results we shall have accomplished much, although we may not have gone to the length that many honest reformers desire.

A meritorious measure may be sometimes loaded down with amendments that in themselves may not be bad—indeed, may be meritorious—and yet they may serve to embarrass and weigh down the measure so that its legislative journey may become harder and more difficult. I hope that this may not be done in this case, and that all those who favor vesting the Commission with the rate-making power will practice as much self-restraint and self-denial in the matter of amendments as possible.

Mr. TILLMAN. Mr. President, some time since, when the subject of judicial power and jurisdiction was under discussion, I announced it to be my belief that the trouble which the Senate has met with in coming to a friendly understanding or agreement in regard to the judicial-review feature of the pending bill was that the people of the country had lost faith in the Federal judiciary. It was a broad statement of my own personal opinion. I was taken to task about it. One Senator after another spoke of the difference existing in the territory from which he came and paid high compliments to the judges.

Among other things, I thought it would be a healthy and proper thing for the people of the country as well as the Senate to be made familiar with some of the actions of some of the judges who are occupying seats for life on the bench. I have had but little time to devote to it, but I have gathered together from one source and another half a dozen or more instances of various transactions in which the judges are involved, and I have felt that it would be justifiable under the circumstances to put these facts in the RECORD.

I want to say, before I do this, that I do not belong to the class, if there be one, which holds all of the judges, or even a majority of them, in contempt or distrust. I believe we have a Supreme Court composed of as high, honorable, and patriotic men as any other like tribunal in the world. They have changed front or reversed themselves and wobbled about a little on certain important questions, but I am willing to say that I think the judges of that court have always been actuated by pure and honest motives.

We have very many great and good judges on the circuit and district benches of the courts of the United States, and they are not confined to any particular section, because we have some of this high type of men in the South. We have unfortunately a larger percentage of those who by the records as I will produce them have been guilty of some very questionable and discreditable acts.

I am specially influenced in making this presentation of the misdeeds and mistakes, to say nothing worse, of some of the judges by reason of the fact that we have had very long and learned and eloquent speeches here day after day, hour after hour, in which the country is told and the Senate is pleaded with to stand by the court, to trust it, to believe in it, not to rob it of any of its powers or functions; and there have been pleas for the exercise of this power of injunction, based on the theory, and the contention that to rob these judges or to take from them by Congressional action the power to interfere in behalf of the railroad (for that is the subject we are discussing), one Senator said, would be Jacobinism and it would be to create anarchy. Other Senators have declared that it would be to jeopardize this bill and render it unconstitutional, and all that kind of thing.

When the Interstate Commerce Commission shall be filled out, as the bill provides, to the number of seven, and the salaries increased so as to command the very highest quality or type of talent that we can get in this country, it will be a body so high in dignity that it will compare favorably in the minds of every thoughtful person with any tribunal in the land.

But we are told that the body thus composed may make mistakes; that it may be led off to issue orders affecting the property of the railroads, which would jeopardize their very existence and would be confiscatory of their property, and that therefore we must leave untouched in the hands of the judges the powers in equity which they have hitherto exercised of granting these temporary restraining orders and temporary injunctions upon the flimsiest and slightest kind of a hearing, and then have the machinery of the Interstate Commerce Commission stopped, have its orders suspended, and let the courts take their own time to settle the issues.

Mr. President, I propose to show that some of the judges are not infallible; and I remind the Senate that, measured by the standard of money (the district and circuit judges receive, I believe, only $6,000), there is no justification for this dread and no good reason for the feeling that there would be any harm done if Congress should limit and restrain the judges from exercising an unbridled and ofttimes, I am afraid, prejudiced view in favor of the railroads. I believe it is good for the country to realize that some of the judges right now on the bench vested with this power, exercising it whenever opportunity offers, have shown themselves wholly disqualified and unfit to be trusted with such authority.

That being the case, the question for the Senate to determine is whether or not the damage which will come, the harm that will result to the country, will not be greater if we leave the court untrammeled than it would be if we put such limitations upon the action of the judges as will prevent them from lending their aid to interminable delays and to the denial of justice.

To illustrate how prone to error and how hard it is for men to agree, and courts as well, and to show the utter absurdity of the contention that the judges are higher creatures—purer, nobler, and more to be trusted than other men—I wish to read a brief extract from one of the New York papers—I think the Saturday Evening Post—published a little while ago. It is headed "When doctors disagree."

The census is silent as to the annual emoluments of the legal profession in the United States, but the sum total must rank somewhere between dairy products and the hay crop.

Either of which, as you all know, runs up into the hundreds of millions of dollars.

Nobody with an economic conscience would seek to lay rash hands upon so vast an industry; but its theoretic basis needs reorganization.

The fee is paid and accepted in the complimentary assumption that the lawyer knows what the law is; but every day brings its depressing evidence that, in fact, the lawyer does not know and can not possibly know.

To take only one day's evidence, the Supreme Court of the United States, four out of the nine justices dissenting, has declared unconstitutional a New York law limiting the hours of work in bakeries. The highest court of New York, three out of seven justices dissenting, had declared the same law constitutional. Thus sixteen of the most eminent judges in the land—nine of the Federal Supreme Bench and seven of the New York court of appeals—have passed upon this law, and seven of the sixteen were wrong about it. If that is the proportion of error among the highest judges, what chance has the poor, busy barrister to be right?

Almost at the same time the Federal tribunal handed down a decision in a railroad land-damage case, also from New York. On the same set of facts the New York court of appeals had once held against the railroad. In this particular case the lower court held against the railroad; then the court of appeals, by a divided bench, held in favor of the railroad. The Washington court, four of the nine justices dissenting, reversed the court of appeals which had previously reversed itself, and upheld the lower court. In the famous Northern Securities case four of the nine Supreme Court justices dissented, and a fifth, while casting the determining vote which settled what the law is, reached his conclusions on grounds different from those taken by his colleagues of the majority.

The law must and will be upheld. It means civilization. It is civilization. Whoever raises a hand to it save by way of kindness is a public enemy. But the assumption that any merely finite being can tell you what it is can not be tolerated. If you must pay somebody because you think he can tell you what the law is, go to a fortune teller or a spiritualistic medium. The knowledge you seek lies beyond the bounds of the tangible. Pay your lawyer, if you will, as your philosopher and friend, and the less he tells you of what he knows about the law the better friend he will be.

Mr. President, that is a very sarcastic and unpleasant arraignment of these high fellow-citizens of ours, the men whom we are all trained from childhood and have for the last one hundred and twenty-five years been taught to look up to as the persons in whose brains and hearts the determination of causes and cases as to their righteousness or injustice should be settled; yet in this instance we have seen how they differed and how impossible for them to agree on the same statement of facts. Then we had a strong illustration of this same trouble in the decision on the income tax. That taxation had been held to be perfectly legitimate and constitutional for a century or more, and yet here a few years ago a hearing was had on it by the Supreme Court. It was given out by the newspapers that the court was divided; that the majority upheld the constitutionality of the law; but the opinion was not handed down. A rehearing having been asked for, the rehearing was argued some months later than these newspapers gave out the statement, and one of the judges changed his mind, having in the first count, or ballot, agreed that the law was constitutional, but he had found some reason to change his opinion. Anyway, by a decision in which there was simply one in the majority, the decisions of all of their predecessors for a century were reversed and the law was declared to be unconstitutional. The country submitted, because the court of last resort had so decreed.

Yet when we simply ask here—some of us, at least—that there shall be a limitation on the minor courts, the subordinate courts, the courts we ourselves create, looking to the granting of immediate and practical relief to the business interests of the country when shippers go before the railroad commission compiaining about injustice and wrong from which they are suffering, Senators argue and plead here for a continuance in the hands of these judges of this great power and authority to exercise the functions of chancery and equity and to grant preliminary decrees suspending the order until the court—this infallible court spoken of, nothing about the other influences—shall determine whether the rate is right, just, reasonable, and lawful.

I can not myself, Mr. President, be converted to the idea that there is anything holy about a judge. He is entitled to great respect, and is always given it if he is at all worthy, but he is still nothing more nor less than a man; and when I see how easy it is for these great and high judges, against whose character and integrity of purpose not a whisper has ever been breathed that I know of—the court of appeals of New York and the Supreme Court of the United States—when I see how they differ and how they change sides, and yet the vote of one man, who, it may be, on that occasion had indigestion or something wrong with his stomach, which deranged his mind in the night, changed the whole law of the land—I say I can not subscribe to the doctrine that these men are infallible or that they are to be any more trusted than the railroad commission.

If it shall be contended that it is necessary for us to incorporate in this bill such a provision as that which I introduced this morning, and which has been introduced in other shape by others, in which it is forbidden for these courts to issue preliminary or interlocutory decrees—if, I say, it is argued that such a provision will make the law unconstitutional, why, I say, let us try it and give the people the benefit of the doubt as to whether or not the commission will be wrong—at least, until the judge has tried it. Let the judge meet it; give the railroad the opportunity to go into court and produce the facts; let the judge determine once for all, but let him hear before he determines. That is all we ask. Some Senators say we can not do that; other Senators say we do not want to do that; and so the people will watch to see how they vote, and determine for themselves whether or not they like it.

But some other things are said in connection with this which are not very pleasant, although what I have just read is not pleasant—this division of eight to eight of two supreme court benches, and the balance so evenly rocked up and down that no one can say which eight were right.

I will pass on to some other arraignments of the bench, whose transactions have shown that they are not only not infallible, but apparently not incorruptible. The first one I come on, however, will cause you to laugh a little, because it is not such a very serious case. It is from the New York World of March 30. It is headed:

IOWA AMAZED AT FEDERAL JUDGE—M'PHERSON CLUNG TO TABLE AT BANQUET AND MADE INCOHERENT SPEECH.

[Special to The World.]

DES MOINES, *March 29, 1906.*

Iowa Republicans are stirred by the publication of the circumstances that brought about the introduction of a resolution before the Council Bluffs Business Men's Federation demanding the removal from the Federal bench of Smith McPherson, who was appointed judge of the southern district of Iowa while representing the Ninth Iowa district in Congress.

The charge made concerns Judge McPherson's condition while addressing a banquet given by Council Bluffs merchants in honor of Governor Cummins. Judge McPherson is an extreme "stand-patter" and an implacable foe of Governor Cummins. He was scheduled to respond to one of the toasts, preceding the governor. He seemed to cling to the table for support while speaking and talked in what is declared to have been a rambling and incoherent manner.

He remarked that one was not allowable to choose the company he should keep. Could he have done so, he declared, he would have kept far away from Council Bluffs, for he always detested the town. So, too, in politics, he had no time for reforms or reformers. He thought it an outrage that so-called and self-styled Republicans should advocate reforms that really branded them as Democrats and were at variance with traditional Republican teachings. He ignored the topic that had been assigned to him, because unintelligible, and wound up by usurping the function of the toastmaster and introducing the governor himself. The governor ignored the circumstance, and in his speech made no attempt to reply to anything McPherson had said.

The Council Bluffs business men were indignant, and at a meeting next day a resolution was introduced demanding the impeachment or removal of McPherson. A subcommittee named to consider this resolution permitted it to die, taking the position that, McPherson's act having been outside his official duty, President Roosevelt could not be expected to take cognizance of it.

Of course it is very absurd to think that the President could do anything more than lecture him, as he did Judge Humphrey the other day, because, being appointed for life, he can only be removed by impeachment if this little peccadillo of being unable to stand up without clinging to a table warranted anything like that, and I do not see what the President has to do with it. This article goes on to state:

This matter has been published extensively in Iowa without, so far as known, enlisting a denial.

Mr. CARTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Montana?

Mr. TILLMAN. Certainly.

Mr. CARTER. One of the most appropriate rules I have ever known is that announced by the Gridiron Club at its dinners, to wit, "Ladies are always present; reporters never present." This report by a certain gentleman who invited Judge McPherson to a dinner in Council Bluffs certainly was ill timed, and the subcommittee referred to treated the matter with just and proper contempt. Smith McPherson, the judge referred to, I have known for many years. He is a man of great learning and unquestionable and unquestioned probity of character. That he behaved like a good fellow in the city of Council Bluffs at a dinner simply shows that he is human and was inclined to enter into the spirit of the occasion. I have never heard anyone intimate that Judge McPherson was given to excess in the matter of imbibing at banquets or elsewhere. I think the article suggested by the Senator from South Carolina was a joke to begin with, treated as a joke at Council Bluffs, and will be so treated everywhere where the people have knowledge of Smith McPherson and the good fellows who were at that banquet.

Mr. TILLMAN. Mr. President, I am entirely willing that it should go that way, but, as the Senator from Montana has volunteered, will he take it on himself to tell us what he knows about this?

Mr. CARTER. I know quite as much as the Senator from South Carolina knows, and he gets his information from the clipping he read, I suppose.

Mr. TILLMAN. That is all.

Mr. CARTER. That is all.

Mr. TILLMAN. I am content to leave it that way. I have nothing against Judge McPherson, nor against any of these judges, for that matter. But suppose that night after leaving the banquet Judge McPherson had been approached by a warm personal friend, like my colleague from Montana, who had a railroad case pending, and some adroit and well-worded plea made of danger to the corporation unless an injunction was granted then and there, does the Senator contend that Smith McPherson would have been a proper person to have signed such a decree that night?

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Iowa?

Mr. TILLMAN. With pleasure.

Mr. DOLLIVER. I regret that I was absent from the Chamber for a moment when the Senator from South Carolina made his observations in relation to Judge McPherson. In reply to what he has just said I will call his attention to the fact that not very many days ago Judge McPherson, dealing with a railway case, in one of the ablest opinions that has been recently rendered by a district court, declined to follow the famous ruling of Judge Humphrey in the meat-packing case. On the contrary, he rendered judgment requiring a great railroad corporation to meet its responsibilities in the suit pending against it, notwithstanding a specious plea of immunity.

I feel that I ought, in justice to a citizen of my own State, say that, whatever else has been charged against Judge McPherson, he has not been charged in any quarter with a want of judicial fairness or a want of good conscience in the discharge of his duties as a district judge of the United States.

Mr. TILLMAN. Mr. President, replying to the statement just made by the Senator from Iowa, I would say to that Senator that I have not reflected in the slightest degree upon Judge McPherson. I merely called attention to a statement coming from his own State, in a special dispatch to the New York World, giving an account of a banquet at which the judge had shown himself not altogether able to stand up without the help of a table, or something like that. But those of us who have attended banquets and know how the thing works are ready to make all due allowance for that. [Laughter.] I had no purpose, as I said in the beginning, other than to start this little recital of mine, which will grow more tragic as it goes on, with something that is light and airy to give the Senate an opportunity to smile. That the judge has since refused to lend himself to following Judge Humphrey's decree possibly ought to strengthen me in my estimation, because, without being a lawyer and without having taken the trouble to examine into the matter at all, I imagined that Judge Humphrey's decision was good law. But whether it be or not, the point I am trying to make is that these judges, vested with great power, having their offices for life, ought not to be trusted too far, when the Senate has an opportunity in this bill which we are considering to clip their claws just a little bit. As I go on I hope I shall show stronger reasons why the proposed amendment which I submitted should go into the bill and become a law rather than this mere joke, I might say, at Judge McPherson's expense.

Mr. PERKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from California?

Mr. TILLMAN. Certainly.

Mr. PERKINS. I want to say a word to my friend from South Carolina in reference to Judge McPherson, as the Senator has, by inference, at least, reflected upon his habits. It was my good fortune for four years, while I was a Member of the House of Representatives, to be associated with Judge McPherson and to board at the same hotel with him. He is a gentleman of culture and of education, and no one stands higher in the profession of the law than does the judge. As for his personal habits, he was a teetotaler, and he set an example which I wish I could have followed as closely as he did. If he has changed in that respect he has only departed from the line he laid down as a rule and guide to his conduct.

Mr. TILLMAN. Mr. President, whatever may be the outcome of this little excursion of mine into the field of judicial peccadillos, probably this publicity which has been given to Judge McPherson's first lapse will warn him to sin no more forever in that regard, especially at banquets. If it shall have that salutary effect, he will go on and probably from this time forward continue to give opinions that are lucid and powerful and strong in upholding the law as it is, not as the judges make it. That is all any judge ought to try to do, and it is all I want any of them to do.

The next batch of matter which I will present for the information of the Senate deals with another friend of the President, this time a real friend, whose opinions he quoted with unction and with great approval, thereby reversing his procedure in the Humphrey case. I read an extract, which I have had copied in typewritten form in order to condense it, from the Kansas City Times of January 29, 1906:

From the Kansas City Times of January 29, 1906, we are informed that the State game warden, J. H. Rodes, intercepted a basket containing "two geese, nine snipe, and half a dozen prairie chickens." The snipe and geese were returned to the party having them in charge, but the prairie chickens he confiscated, it being the close season for this game. J. H. Durkee, coal dealer, of Kansas City, was the party having this game in charge.

We quote from the newspaper's report on the above date (Kansas City Times):

"The game was not mine," said Mr. Durkee last night. "I had taken it to the train at the request of a friend of mine who wanted the party to have the birds. I have always been active in upholding game laws and went to Jefferson City last winter in the interest of this very measure. I regret very much that the matter should be given any notoriety."

The party left last night in Mr. Lathrop's private car, attached to the Santa Fe train leaving at 10.30 o'clock. The party consisted of:

Judge Smith McPherson, United States district judge for the southern district of Iowa.

Judge John F. Philips, United States district judge for the western district of Missouri.

Judge John C. Pollock, United States district judge for Kansas.

Samuel W. Moore, general solicitor for the Kansas City Southern Railroad, Kansas City.

Judge O. M. Spencer, general attorney for the Burlington, St. Joseph.

Gardiner Lathrop, general solicitor for the Santa Fe system, Chicago.

Dr. Jabez N. Jackson, Kansas City.

W. N. McLeod, one of Senator WARNER'S law partners.

The next day's issue of the Kansas City Journal gives the same list of persons as constituting the party. From the Kansas City Star of January 30 we find that the having of these prairie chickens in his possession cost Mr. Durkee $35.65.

For a number of days the matter seems to have been discussed, and finally, on February 18, at the regular weekly session of the municipal university, in the university building, Judge J. McD. Trimble, referring to the pleasure trip to Tampico, which three Federal judges took as the guests of Gardiner Lathrop and two other general solicitors for railroads, said (Kansas City Times, February 19):

"'I do not think there was anything like corruption intended or apprehended in the invitation and its acceptance,' said Judge Trimble. 'I do not believe that any one of the three judges who was thus entertained would consciously allow the recollection of social favors to influence him in the conduct of cases in which his hosts were interested. I believe if the thought had occurred to them that the public might put an adverse construction upon the affair not one of those judges would have dreamed of going off even on a pleasure jaunt with railroad attorneys. But the fact remains that no matter how disinterested were their motives the action begets distrust in the public mind, and that is enough to condemn it.'"

Judge Trimble dwelt upon the high standing of all the men in the Tampico party, and that by reason of their ascendency the affair gained greater significance. He said that but for a minor episode, the confiscation of a deputy game warden of six birds intended for the private car, the fact that three Federal judges were being entertained by the general solicitors of three railroads probably would never have become public knowledge.

"The distinguished guests were judges in the districts in which one or all of the three railroads represented by the hosts operate. I do not hesitate to say that I believe that those general solicitors would not have invited the men they did had not those men been judges. No doubt the invitation was fairly, innocently worded.

"But the men of the caliber of the three judges in question ought and must have known that there was dope in the middle of the sugar-coated bait that was held out to them. While the dope may and probably will not poison them, the people believe it will. Such an affair as the Tampico pleasure jaunt begets in the people a disregard for judges and a consequent disregard for laws. The courts are ours; the laws are ours; we made them both and can unmake them at will."

Judge Philips evidently noted this comment of Judge Trimble, and in the Kansas City Star the afternoon of February 19 writes an open letter over his signature, which was given the prominence it deserved by being placed in the third column on the front page. The entire letter follows:

"TO THE STAR:

"In view of the prominence given to 'that Tampico trip' in the Times of this morning I feel constrained to depart from my customary course of silence affecting my conduct as judge, or in any matter official, by begging sufficient space in your paper to make a plain statement of facts.

"Responsive to the intense spirit of demagoguery of the hour, a pleasure trip of personal friends is sought to be colored with a sinister purpose on the part of Gardiner Lathrop, as solicitor of the Santa Fe Railway Company, to place under obligation three Federal judges. In justice to him and the truth I state that the fishing excursion to Tampico was entirely of my invitation.

"For four years past I had heard of the rare sport of tarpon fishing at that place. I had enjoyed the recreation of like sport at Aransas Pass and desired to test Tampico. As both Mr. Lathrop and his law partner, Samuel W. Moore, had also fished at Aransas Pass, some months ago we discussed together our desire to go to Tampico whenever conditions made it practicable. We agreed that if we could get away this month, deemed most favorable for the sport, we would go provided a companionable party could be organized. As this month approached I renewed the suggestion, and obtained Mr. Lathrop's consent if he could get away from his work.

"As I was considered the originator of the excursion he left it largely to me to make up the personnel of the party. I had visited the Yellowstone Park in company with Judge McPherson.

It seems that these two judges especially love to roam around on private cars of railroad magnates.

"My personal knowledge of his rare character and *social* qualities brought him to view, and I urged him to become one of the party, and he did so. Judge Pollock was holding court in my district, while I was doing work on the court of appeals and circuit. As he is especially fond of the sports of the field and streams, I urged him to go, and he consented. Judge Spencer for a quarter of a century has been my

personal friend. A more delightful traveling companion, a more unselfish, big-hearted man does not live. I urged him to go, and he consented. I also invited Doctor Heddons, of St. Joseph, to go. I had traveled with him through Yellowstone Park and knew his worth. He could not go. I invited our fellow-townsman, Dr. Jabez Jackson, and he went, as our 'friend and physician.' Mr. McLeod, attorney of this city, my close personal friend, joined us.

"It is true that we rode in a special car, just as I would have gone fishing in a private wagon of a friend, standing my proportion of the 'grub and bait.' From its inception to its close the 'outing' was distinctly social in its makeup and character. Whenever I shall avoid my friends of long standing, and they me, because they are lawyers representing railroads, and because I am a judge, I shall despise myself and the office. If anyone thinks that such personal friendships and intercourse can not be indulged without judicial corruption, subserviency, or sinister design, I only beg to be allowed to indulge the opinion that such a person judges others by his own conscious lack of virile virtue and integrity. From a lifelong acquaintance with Gardiner Lathrop, I entertain such opinion of his character and his ideals that I believe him incapable of doing aught to unduly influence a judge or to pervert justice.

"Very respectfully, JOHN F. PHILIPS."

Mr. President, there are two editorials here from the two Kansas City papers. They deal with some questions of railroad litigation and other matters, and it would take too long to read them, but with the consent of the Senate I will ask to incorporate them in the RECORD.

The VICE-PRESIDENT. Is there objection? The Chair hears none.

The matter referred to is as follows:

[Editorial.]

PRAIRIE CHICKENS AND TARPON FISHING—HOW BY MERE CHANCE THE LIGHT WAS TURNED ON THE RAILWAY SPECIAL CAR JUNKET OF THREE FEDERAL JUDGES.

A luxurious, tarpon-fishing junket from Kansas City, Mo., to Tampico, Mexico, upon which three United States district judges, McPherson, Phillips, and Pollock, presiding, respectively, in Iowa, Missouri, and Kansas, were the guests in the special car of Mr. Lathrop, general solicitor of the Atchison, Topeka and Santa Fe, began with the departure from Kansas City on January 28 of Mr. Lathrop's palace on wheels, with its well-stocked larder and buffet and an unlimited supply of "transportation." General Solicitor Lathrop was assisted in entertaining the eminent jurists by Judge O. M. Spencer, general attorney of the Chicago, Burlington and Quincy Railroad Company, and by Judge Moore, general solicitor for the Kansas City Southern.

The peculiarly interesting features of this spectacular pleasure jaunt of these three Federal district judges as the guests of three leading railroad attorneys might never have been brought to public attention, and the subsequent close scrutiny and scorching criticism which have attached to it, but for the fact that a bunch of prairie chickens, which by Judge Spencer's direction were being conveyed to Mr. Lathrop's car to be presented to that gentleman to grace the Lucullan feasts of its dining tables, fell into the hands of the State game warden and were confiscated by him, it being the closed season for prairie chickens, and the person in whose possession they were found fined $35.65.

In these days, when the regulation of railroads and the relations of railroads to the courts are the subject of universal consideration, it is not strange that this fishing bee of railway attorneys and Federal jurists has created no little comment and distrust in the public mind, the more so in view of the fact that the railroad solicitor's three jurist guests were the presiding judges in the three districts in which one or all of the three railroads represented operated.

Such an affair as the Tampico expedition and the preliminary contemptuous violation of the game laws by Judge Spencer had the effect of exciting the people to disregard for judges and laws.

The people realize that three general solicitors of railways would not have invited the three men who were their guests had the latter not been judges. As was said by Judge Trimble, a distinguished jurist of Kansas City, "Men of the calling of the three judges in question ought to, and must have, known that there was dope in the middle of the sugar-coated bait which was held out to them. While the dope may, and probably will, not poison them, the people will believe it will."

Antipass legislation seems to be a farce, and the administration of justice between the people and the railways but a pipe dream, in view of such spectacles as this, of three Federal judges accepting from railroads which had but recently been before them charged with violation of the law not only free transportation, but free lodging, free drinks, free cigars, and all the rest that goes with the blow-outs of railway magnates. The acceptance and use of the ordinary everyday railway pass, paid for by the common people, who have to put up good money for transportation, when compared with such junketing as was participated in by Federal Judges Phillips, Pollock, and McPherson is but as petty larceny compared with breach of trust and burglary.

Doubtless the judges returned from the blue waters of the Gulf greatly refreshed in body and invigorated in mind by their close communion and association with the railway attorneys who were their *compagnons du voyage*, but they will need all their strength and vigor to explain some things to the people, who have conceived a most persistent interest in judicial tarpon-fishing junkets personally conducted by railroad attorneys.

The prairie-chicken incident by rare chance cast illumination upon the journeyings of the special car, and in the same light it may be interesting to look over the past as well as the future decisions of the three judges in connection with controversies in which certain railways are involved.

[Editorial.]

A flagrant case of accepting free transportation and other favors from railroads by United States judges has recently come to light. Judge Philips, of the western district of Missouri, was tendered by the Atchison, Topeka and Santa Fe Railroad Company, through Mr. Gardiner Lathrop, general solicitor, the use of a private car for a junket fishing trip to Mexico, and given carte blanche in choosing his companions on the trip. Acting upon this Judge Philips invited Judge McPherson, of the district of Iowa, and also Judge Pollock, of the district of Kansas—all district judges of the United States. In the same party were Judge Spencer, general attorney of the Burlington, and Judge Moore, general solicitor of the Kansas City Southern.

The peculiarly interesting feature of this spectacular pleasure jaunt of the three Federal district judges, as the guests of three leading railroad attorneys, might never have been brought to public attention, and the subsequent close scrutiny and scorching criticism which have attached to it might have been avoided, for the fact that a bunch of prairie chickens, which by Judge Spencer's direction were being conveyed to Mr. Lathrop's car to be presented to that gentleman to grace the Lucullan feasts of its dining tables, fell into the hands of the State game warden and were confiscated by him, it being the closed season for prairie chickens, and the person in whose possession they were found was fined $35.65.

Judge Philips was criticised in the papers, but so obtuse are his perceptions that he seeks to justify this on the ground that it was a mere matter of personal favor. In his public statement over his own signature in the Kansas City Star of February 19, 1906, he states that each paid for his own "proportion of the grub and bait," and scoffs at the idea that anybody could be influenced by any such courtesy.

A decent regard for the ermine which they wear should have prevented these judges from even incurring the risk of public criticism. That law which they violated might at any time come before them for interpretation and enforcement.

Judge Philips had this law before him for construction only a short time prior to his going on this junketing trip, and strangely enough it appears that one of the defendants at that time was E. H. Ripley, president of the railroad company whose hospitality the court was so soon to accept. Another one of the defendants was Paul Morton. It is unnecessary to add that to these defendants a clean bill of health was given.

Judge Philips's record for years shows that the majority of cases in which corporations were parties before him were decided favorably to the corporations. Judge McPherson held in a case where a railroad company was defendant that a tender—a car carrying fuel and water for a locomotive—was not a car within the meaning of the safety-appliance act. The Supreme Court says a tender is a car.

Is it any wonder that the people have a distrust of the Federal judiciary, when their rights as distinguished from the demands of the carriers are to be passed upon by such judges as those carried by the Santa Fe private car? Can it be doubted that Judge Philips is unfitted longer to sit upon the bench, when litigants have reason to fear his decision whenever one of the parties is a railway company and when that litigant has not a railroad and a private car to place at the disposal of his friends?

Mr. TILLMAN. As I said, Mr. President, Judge Philips was quoted with great unction and satisfaction by the President in that now famous case of the Santa Fe road, in which he went out of his way to declare that Mr. Paul Morton was absolutely free from any suspicion of wrongdoing in the way of rebates and all that kind of thing, and the President adopted that view, as I said, with great satisfaction, and sent a special message or gave out a report or something here which was printed; and as the Executive now seems to be indulging in a different policy from that of any of his predecessors, in lecturing a judge who happens to give an opinion that does not suit him, it is very well for lawyers who want to examine into the merits of the two cases to compare Judge Philips's opinion in the Santa Fe case with Judge Humphrey's in the meat packers' case, and see which one of them is the better lawyer. I do not know.

I will just remark that while Senators and others sometimes ride in private cars of railroad magnates—I have done it—and sometimes ride on free passes—I have done it—we are not to be supposed to be debauched by any little courtesy like that, and probably these judges are equally innocent. But as they hold such immense power, very much greater than any we hold, it might be just as well for them to keep themselves, like Cæsar's wife, above suspicion, and not run into temptation and things like that. I have put this record in the CONGRESSIONAL RECORD with a view of framing an admonishment. My friend on my left corrects me by saying, "Like Cæsar wanted his wife to be." I believe he did divorce her because he had some suspicion. I correct it very gladly, because I should like to have our judges not only upright, but to lead so clean and high a life and apart from temptation that a suspicion that they are wrong or are likely to go wrong will never be indulged in by any dirty newspaper reporter or editor. [Laughter.]

Now we get down to something a little more serious. Swinging on down the other side of the Mississippi River—I am running this thing geographically—I will come to a case in Texas. I have heard a great deal about "due process of law," and that if we take certain action here it will be a denial of due process of law, and that it will render this bill unconstitutional if we incorporate in it provisions of that character.

I am getting a little tired of reading, and I will ask the Secretary to read what is in the shape of a petition addressed to the two Senators from Texas now in this Chamber, and to the entire Texas delegation in the House, pleading for redress of a grievance in regard to the action of one Judge McCormick, circuit judge in Texas.

The VICE-PRESIDENT. Does the Senator wish to have it all read, or only the part that is marked?

Mr. TILLMAN. Read it all, from A to Z.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

To honorables C. A. CULBERSON, J. W. BAILEY, THOMAS H. BALL, SAMUEL B. COOPER, R. C. DE GRAFFENREID, JOHN L. SHEPPARD, C. B. RANDELL, DUDLEY G. WOOTEN, ROBERT L. HENRY, S. W. T. LANHAM, A. S. BURLESON, GEORGE F. BURGESS, RUDOLPH KLEBERG, JAMES L. SLAYDEN, and JOHN H. STEPHENS, Senators and Members of the House of Representatives from Texas in the Congress of the United States:

We, the undersigned petitioners, respectfully show that they filed suits in the district court of Grayson County, Tex., in September, 1888, against the St. Louis, Arkansas and Texas Railway Company for damages on account of a breach of a contract. One of these suits, to wit, that of C. W. Batsell, was, by consent of parties, made a test case, since the same questions were involved in all the cases. On a trial of said Batsell case in said district court a demurrer of the defendant having been sustained, the said case was appealed to the appellate court, and on October 11, 1895, said cause was reversed and remanded by the appellate court to the said district court for trial on its merits. Thereafter an amended petition was filed in said cause where all your petitioners were made parties to said cause, and also additional parties defendant were made, including the St. Louis and Southwestern Railway Company and the bondholders of said company; and your petitioners sought to foreclose a lien on certain real estate situated in the State of Texas. Thereupon some of the defendants filed an application and bond for the removal of said cause to the circuit court of the United States in and for the eastern district of Texas, sitting in the city of Paris. Said application was granted by said district court and an order made removing said cause to said United States court on the 7th day of December, 1897, and ever since that time said cause has been pending in said circuit court of the United States. The Hon. D. E. Bryant, one of the judges of the said circuit court by virtue of being the judge in and for said district, has continuously held himself to be disqualified to try said cause or to make any order therein by reason of his having been counsel in said cause. Your petitioners, through the said C. W. Batsell, have made repeated applications to the Hon. A. P. McCormick, circuit judge of the United States in and for the fifth circuit, of which this State forms a part, either that he, the said McCormick, should sit and try the said cause or designate some other district judge of the United States to sit in lieu of said Bryant, as we are informed the said circuit judge has power to do. But the said Hon. A. P. McCormick refuses to do either on the ground, as he states, that he does not deem that the public good requires such action on his part.

Your petitioners show that by reason of said McCormick's action they are deprived of an opportunity to be heard in the courts of their country in what they verily believe is a just cause, and they are thereby deprived of justice. Your petitioners would be loath to believe, and they do not claim that the said McCormick, in pursuing said course, is actuated by any other than a sense of duty as he sees it, but your petitioners respectfully represent that they believe that he is mistaken, and that the highest public good in a free government requires that every citizen, no matter how humble his condition, should have an opportunity to be heard in the courts of his country, and they believe that no judge, whether Federal or State, should have the power to prevent such a hearing.

They are informed that there are other causes pending in this State which are in the same condition as their cause, and that the said McCormick has pursued the same course in them.

Wherefore your petitioners pray that you, as their representatives, take such action as you may deem best to give your petitioners and others who may be in the same condition relief.

C. W. BATSELL.	R. WALSH.
W. H. LANKFORD.	JOT GUNTER.
H. L. HALL.	JOHN SUMMERFIELD.
J. IRA HALL.	ZAUK & KRUEGER.
L. F. ELY.	E. F. HALSELL.
M. H. ANDREWS.	J. W. ODNEAL.
A. R. ANDREWS.	D. FOWLER.
TURNER WILSON.	A. A. FIELDER.

Mr. TILLMAN. Mr. President, it will be observed that Judge McCormick has absolutely refused for the last six years, I think it is, and if not, the Senator from Texas will correct me, to order any other judge to hold court for the purpose of trying this case. The case was transferred to this court by a judge who was himself disqualified. There have been two instances in which judges have offered to swap, to change places, to get there in order to relieve this condition or paralysis in which the course of justice is involved there, but McCormick, for reasons known only to himself, will not permit the case of the complainants, which is against two railroads or three railroads, to be tried, and he has held it in that condition for six years.

Now, what would a judge like that do when a case involving the rate-making power over those roads or others in his jurisdiction is brought before him, and an effort made to get him to suspend the rate and let the Commission go out of business so far as that decree is concerned, and let the shippers whistle for a final settlement? This is a view I wish Senators to take and to consider. It is whether you propose to keep out of this bill such a provision as will stop judicial tyrants from such transactions as that—a denial of justice. I do not know why nothing has been done here in this Texas case. I understand from some other source that a bill passed the House, I think, but that it is sleeping in the Judiciary Committee of the Senate. The senior Senator from Texas [Mr. CULBERSON] can probably tell me, if he sees fit, what is its exact status.

Mr. CULBERSON. I did not hear the question of the Senator from South Carolina.

Mr. TILLMAN. I was merely trying to elucidate the situation in regard to this petition, which seems to deal with a very great wrong and grievance in regard to Judge McCormick's refusal or denial of an opportunity for these cases to be tried, and I have information, which I get in a private letter, that the House passed a bill which looked to giving relief in this case, but that the matter has never been acted on by the Senate.

Mr. CULBERSON. I do not remember, Mr. President, whether this particular question has ever been brought to the attention of the Committee on the Judiciary since I have had the honor to be a member of that committee. When a copy of the petition was read—it is manifestly, of course, an old one—I was trying——

Mr. TILLMAN. It is an old petition, dating back to the time when this thing first occurred, in 1897 or 1898.

Mr. CULBERSON. I say it is manifestly an old one, because some of the Members of the House named have long since ceased to be Members of the House, and some even have moved out of the State of Texas. I was trying to recall the circumstances of my having received a copy of it. I have not yet been able to recall it. I presume I did receive a copy, as my name appears as one of the persons to whom it is addressed. But so far as I now remember, I do not recall the circumstance of a bill having been presented to the Committee on the Judiciary since I have been a member of it.

Mr. TILLMAN. I may be in error. I heard that. It does not concern this matter anyhow. It is not a question whether these facts are true.

Returning back up the Mississippi—as I said, I am treating this matter geographically—I come to a rather famous case of extraordinary judicial action in the receivership of the Northern Pacific Railroad Company. I have here a report, prepared by Mr. Boatner, from the Committee on the Judiciary in the House, submitted to the House in 1893. I have condensed it for the purpose of presenting the facts, and I will ask the Secretary to read the statement of facts as set forth in the paper which I send to the desk.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

James G. Jenkins was commissioned a circuit judge of the United States for the seventh circuit (Illinois, Indiana, and Wisconsin) March 23, 1893.

August 15, 1893, Judge Jenkins, in the circuit court of the United States for the eastern district of Wisconsin, in the case of the Farmers Loan and Trust Company *v.* the Northern Pacific Railroad Company, made an order putting the railroad company into the hands of three receivers—Thomas F. Oakes, Henry C. Payne, and Henry C. Rouse.

August 17, 1893, the receivers ordered a reduction of from 10 to 20 per cent in the salaries of all employees of the road whose annual compensation amounted to $1,200 or more, the reduction to take effect from August 15.

August 25, 1893, the receivers made a further reduction of wages, as shown in the following order adopted by them:

"*Ordered*, That a further reduction be made in salaries and wages of employees of 5 per cent of all salaries aggregating $50 per month and under $75, and that a 10 per cent reduction be ordered to apply on all salaries from $75 to $100 per month. This order to take effect at once."

October 28, 1893, the receivers, abrogating and canceling all existing rates of pay, adopted an entirely new schedule of wages, which made still further reductions in the pay of all employees of the road. The receivers declared that the new schedule of wages should go into effect and be operative on and after January 1, 1894.

The receivers' order of October 28, 1893, having created great dissatisfaction among all classes of employees of the road—engineers, firemen, train men, train dispatchers, telegraphers, conductors, switchmen, etc.—the receivers, December 18, 1893, filed a petition in court asking authority to enforce their new schedule of wages and praying for an injunction to accompany the same, and the court forthwith (December 19, 1893), on the ex parte application of the receivers, made an order (p. 3 of House Rept. 1049, Fifty-third Cong., 2d sess.) adjudging and decreeing that the receivers "be, and they are hereby, authorized and instructed to put in operation and maintain upon the Northern Pacific Railroad the revised schedule and rates, more specifically in said petition described and ordered by said receivers to take effect January 1, A. D. 1894, and for that purpose and to that end their action in abrogating and revoking the schedules in force on said railroad at the time of their appointment as such receivers, August 15, A. D. 1893, is hereby confirmed."

And the court likewise, on December 19, 1893, further adjudged and decreed (p. 3 of H. Rept. 1049, 53d Cong., 2d sess.) "that the said receivers, Thomas F. Oakes, Henry C. Payne, and Henry C. Rouse, are entitled to a writ of injunction, as prayed for in their said petition, and the clerk of this court is hereby directed to issue the same in due form, under the seal of this court, and to deliver the same to the marshal for execution, who is hereby ordered to protect the receivers of the Northern Pacific Railroad Company in their possession of the property of the Northern Pacific Railroad and in their operation thereof."

The injunction as prayed for (which the court thus granted) is seen in the second prayer (pp. 4–5 of H. Rept. 1049, 53d Cong., 2d sess.) of the receivers' petition. It contains, among other things, a prohibition to the employees of the road "from combining and conspiring to quit, with or without notice, the service of the receivers, with the object and intent of crippling the property in their custody, or embarrassing the operation of said railroad, and from so quitting the service of said receivers, with or without notice, as to cripple the property, or to prevent or hinder the operation of said railroad."

December 22, 1893, the receivers presented a supplemental petition

to the court setting forth that their employees were contemplating a strike for the purpose of preventing the proposed reduction of wages, and averring the belief of the receivers that the employees of the road would obey the orders of the executive heads of their respective labor organizations rather than the order of the court already made, if such executive heads should order a strike, and praying the court to enjoin the officers and agents of the labor organizations and all other persons from ordering a strike, and the court forthwith (December 22, 1893) decreed as requested by the receivers. (For injunction, see pp. 8–9 of H. Rept. 1049, 53d Cong., 2d sess.)

For opinion of Circuit Judge Jenkins on motions to modify his preliminary injunctive orders as above made, see Farmers' Loan and Trust Company *v.* Northern Pacific Railroad Company (60 Fed. Rep., pp. 803–824.)

For opinion of the circuit court of appeals concerning said injunctive orders, see Arthur *v.* Oakes, 24 U. S. App., 239–270; 11 C. C. App., 209–228; 63 Fed. Rep., 310–329. The opinion of the circuit court of appeals was written by Circuit Justice Harlan, with whom sat Circuit Judge Woods and District Judge Bunn. The preliminary injunctive orders were purged of the offensive features above mentioned.

Mr. TILLMAN. Mr. President, it will be observed that in that case Judge Jenkins appointed three receivers of this railroad system, who under the rulings and law as it was interpreted by the Supreme Court were the servants of the court, and that every employee of the railroad—several thousands of them—became a part of the machinery of the court to run the railroad. So when these receivers reduced wages, and then reduced them a second time, and the men began to combine or to organize to resist this taking of bread out of the mouths of themselves and their families, fearing a general strike, which, I think, had been ordered, which certainly was threatened, the judge issued a decree enjoining every employee from quitting work.

This judge has recently retired. I think I have understood that he left the bench in January. Therefore he can do no more devilment like this. But there are other judges around. I shall not do more here than read the conclusion reached by the Judiciary Committee of the House, which was embodied in a resolution. I have not followed the case or the subject-matter of the case up to date, but I believe it is now considered good law for judges to enjoin people from quitting work. [To Mr. SPOONER.] Is it? The Senator from Wisconsin can enlighten me.

Mr. SPOONER. The Senator from South Carolina forgets what is proper, Mr. President, and decent among Senators to challenge me in any such way when he interrogates me——

Mr. TILLMAN. Mr. President——

Mr. SPOONER. He did that once before.

Mr. TILLMAN. I hope the Senator, before he goes any further—because he has already said two very mean words, and I have a little red blood in me sometimes——

Mr. SPOONER. No more than I.

Mr. TILLMAN. Now, let me disclaim the slightest purpose of in any way reflecting or doing anything but merely asking, as a friend, whose legal knowledge I could always rely upon except on this power of the courts, to set me right. I do not know the present status of the law as the courts have determined it in regard to the power of judges in issuing injunctions against quitting work, and I simply asked as a matter of information.

Mr. SPOONER. Mr. President, when I am engaged in debate I am quite ready, and always have been, to submit to interrogations.

Mr. TILLMAN. Very well. Then will the Senator allow me to withdraw my question and apologize for having intruded upon him?

Mr. SPOONER. I ask no apology from the Senator.

Mr. TILLMAN. Then sit down.

Mr. SPOONER. The Senator——

The VICE-PRESIDENT. The Chair will state to Senators——

Mr. SPOONER. The Senator forgets——

The VICE-PRESIDENT. Will the Senator from Wisconsin kindly suspend? The rules of the Senate forbid Senators from addressing the Senate without first having had recognition by the Chair.

Mr. TILLMAN. Mr. President, who has the floor?

The VICE-PRESIDENT. The Senator from Wisconsin had the floor and was interrupted by the Senator from South Carolina without the permission of the Senator or the recognition of the Chair.

Mr. TILLMAN. If the President will allow me, I had the floor and asked a question of the Senator. The Senator rose in answer to the question and did not address the Chair.

The VICE-PRESIDENT. The Senator from South Carolina invited the interruption by the Senator from Wisconsin.

Mr. TILLMAN. I will subside and quit for the time being.

The VICE-PRESIDENT. The Senator from Wisconsin has the floor by the courtesy of the Senator from South Carolina.

Mr. SPOONER. Mr. President, the Senator from South Carolina accentuates what I regard to be a very great piece of rudeness by ordering me in a mandatory way, after I had addressed the Chair, to sit down.

Mr. TILLMAN. I apologize for that. Does that satisfy you?

Mr. SPOONER. I always grant it.

Mr. TILLMAN. I simply want to get it clear, and I want no contention with the Senator to-day, because he told me he was ill.

Mr. SPOONER. Neither the Senator from South Carolina nor any other Senator, Mr. President, need be in the slightest degree complaisant to me. If he wants a controversy with me, he can have it. I think he wants it.

Mr. TILLMAN. I do not.

Mr. SPOONER. I have sat down, Mr. President, under no orders, but of my own volition.

Mr. TILLMAN. Mr. President, I want to repeat that in addressing the Senator from Wisconsin in asking for information I had no suspicion that he would take it ill, that he would feel hurt or in any wise evince temper.

Mr. SPOONER. I have not.

Mr. TILLMAN. Well, the Senator must have.

The VICE-PRESIDENT. The Senator from South Carolina can not be interrupted except by his consent.

Mr. SPOONER. Will the Senator allow me?

Mr. TILLMAN. Certainly.

Mr. SPOONER. Mr. President, I have not.

Mr. TILLMAN. Mr. President, if the Senator had not shown by the use of a word that he was angry, I would not have felt called on to so quickly try to set him straight. He said that something I did was hardly decent. He used the word "decent" in the negative in connection with my action or utterance—in other words, intimating, insinuating, or asserting that what I had done was indecent. Now, if that does not mean anger on his part—the Senator is the very pink of courtesy, as we all know——

Mr. SPOONER. Mr. President——

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Wisconsin?

Mr. TILLMAN. Oh, certainly; always.

Mr. SPOONER. Probably the word "indecent" was too strong. I rather think it was. I will withdraw that word and substitute for it the word "rude."

Mr. TILLMAN. Well, being a rude man, and not caring about it, I take that.

Now, Mr. President, having stated the facts, or had them read, and supplementing them by a brief personal statement, I simply wanted to offer in connection with this action of Judge Jenkins the conclusion of the Judiciary Committee of the House in its report which I have quoted, Report 1049, Fifty-third Congress, second session:

Your committee therefore recommends the adoption of the following resolution:

"*Resolved*, That the action of Judge James G. Jenkins in issuing said order of December 19, 1893, being an order and writ of injunction, at the instance of the receivers of the Northern Pacific Railroad Company, directed against the employees of said railroad company, and in effect forbidding the employees of said Northern Pacific Railroad Company from quitting its service under the limitations therein stated, and in issuing a similar order of December 22, 1893, in effect forbidding the officers of labor organizations with which said employees were affiliated from exercising the lawful functions of their office and position, was an oppressive exercise of the process of his court, an abuse of judicial power, and a wrongful restraint upon said employees and the officers of said labor organizations; that said orders have no sanction in legal precedent, were an invasion of the rights of American citizens, and contrary to the genius and freedom of American institutions, and therefore deserving of the condemnation of the Representatives of the American people."

I simply want to repeat, because I should like to have the idea driven home, if by repetition it can be done, should this power be given to a judge who will so far forget the decencies of his profession and of his position as to ignore the law and the rights of his fellow-citizens and attempt, because of the fact of this receivership, to compel several thousand men to remain at work, making them in effect slaves? I want to know what a judge like that would do in this case; and we have had several other injunctions of one kind and another, so much so that the party to which I belong had as one of its platform planks a declaration that government by injunction in the United States should cease. I want to know what a judge like Judge Jenkins would do if a rate made by this railroad commission which we are discussing, displeased these railroads. Would he hesitate a minute to issue his decree ordering the suspension of the rate and declaring that the railroad should run on under its own rates? Would such a decree be a denial of justice if we suspended his power to issue it until after he had heard the case?

That is all we ask. We want to prohibit and prevent these preliminary and interlocutory decrees by a judge who has

heard nothing but takes the simple affidavit or complaint of the lawyer of the road who goes to the judge, and the railroad commissioner goes up into the air, and the shipper waits indefinitely, in some instances, as at Titusville, Pa., for an opportunity to get redress, waits like those people in Texas are waiting, seven long years, because one of these judicial high priests, these Brahmins of the inner temple, who are so sacred in the eye of some of our legal friends here, because one of this Sanhedrim or other sacred persons must not be interfered with by Congress, although Congress created the office, and under the Constitution, as we understand it, has the right to say, "You can go so far and no further." We want these judges to try the case and hear it all, and then if they decide that the Commission's act is unlawful, or an invasion of the constitutional rights, issue your injunctions, but do not do it until you have heard the case.

I come now to a different class of judicial tyranny; in other words, the railroad judge. Your railroad judge seems just as incapable of holding the scales evenly and deciding a cause upon its merits as though he had but one side to his head and could look only toward the railroad interests.

This is rather a long recital, but it is pertinent and interesting. In the next case I am informed by a most reliable gentleman, and I am not altogether willing to give his name, although he has not asked me not to do it, for the simple reason I expect this Jeffreys, this judicial tyrant, as I call him, would not hesitate to rule him for contempt, but I ask permission to have the Secretary read the famous contempt case of Josephus Daniels, of the Raleigh News and Observer, in the matter of the receivership of a railroad in North Carolina, in which the road was put under receivership by Judge Purnell, and this editor was cast into prison because he refused to pay a fine of $2,000 for having exercised his right in the editorial columns to comment on it.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

FAMOUS CONTEMPT CASE HAS BEEN FINALLY ENDED—EDITOR JOSEPHUS DANIELS, OF NORTH CAROLINA, HAS BEEN RELEASED FROM CUSTODY—FREEDOM GIVEN EDITOR BY JUDGE PRITCHARD—GRAPHIC REVIEW OF REMARKABLE CASE WHICH GREW OUT OF FEDERAL ATTEMPT TO PLACE THE ATLANTIC AND NORTH CAROLINA ROAD IN RECEIVER'S HANDS.

RALEIGH, N. C., *June 4, 1904.*

As told in the Constitution this morning, the famous contempt case which has torn North Carolina for the past week and which grew out of the editorial criticism of Federal Judge Purnell appearing in the Raleigh News and Observer, was ended yesterday by Judge Pritchard dismissing the proceedings and ordering Editor Josephus Daniels released from further custody.

Editor Daniels had severely criticised, in his paper of Sunday, May 29, the action of Judge Purnell in appointing receivers for the Atlantic and North Carolina Railroad, of which the State of North Carolina is three-fourths owner. Mr. Daniels, who is one of the most prominent citizens of the State and was for a number of years the North Carolina member of the national Democratic executive committee, was fined $2,000 by Judge Purnell for contempt, and on refusal to pay the amount was placed in custody.

The appointment of receivers for the Atlantic and North Carolina road was overruled by Chief Justice Fuller, of the United States Supreme Court, and Judge Pritchard, the new judge of the fourth district, came down from Washington to hear the case.

At 3 o'clock the Federal court room was filled to overflowing with people who were deeply interested in the outcome of the habeas corpus proceedings. The prisoner, Mr. Daniels, in custody of the marshal and accompanied by his attorneys and friends, filed into the court room and in a few moments Judge Pritchard opened court. Marshal Dockery read the writ of habeas corpus and his return thereto and announced to the court that in accordance with the said writ the body of Josephus Daniels was before the court. District Attorney Harry Skinner, at the suggestion of Judge Pritchard, represented Judge Purnell in the hearing.

Judge R. W. Winston, representing Mr. Daniels, made a clear, logical, forceful, and feeling speech, in presenting the reasons why the prisoner should be discharged. He reviewed the statute under which Mr. Daniels was held and the decision of the court on same, and showed with the utmost clearness that Judge Purnell had no jurisdiction and that there was no legal reason why the rule should have been issued or served.

District Attorney Skinner, in answer to Judge Pritchard, stated that Judge Purnell had made an order authorizing the prisoner to appeal and to be discharged upon his perfecting the appeal and giving bond. When this statement was made, Judge Pritchard asked if this order was made before or after the writ of habeas corpus was granted by him (Judge Pritchard). He was informed that the order was made by Judge Purnell, after the writ of habeas corpus had been granted. Judge Pritchard then stated that, in his judgment, the rule and order made by Judge Purnell were not warranted by the law, that the prisoner was entitled to be discharged, and directed the clerk to enter an order discharging him.

When this order was made the marshal found it impossible to keep order in the court room. The intense strain under which people had been laboring ever since the arrest and imprisonment of Mr. Daniels was relieved and pleasure and satisfaction were observed on every face. A stream of friends crowded around Mr. Daniels to shake his hand and to congratulate him on the fact that he had been vindicated in his manly stand for the freedom of the press in North Carolina.

This was Judge Pritchard's first case after he was sworn in as circuit court judge, and his fair and impartial action in discharging and releasing a man who was unjustly imprisoned has made a deep impression on the people of North Carolina.

M'BEE APPOINTED RECEIVER.

The facts leading up to these contempt proceedings form a page in the history of the State which will long be remembered by the people. Several months ago application was made at Norfolk, Va., to Judge T. R. Purnell, United States district judge for the eastern district of North Carolina, for a receiver for the Atlantic and North Carolina Railroad—a railroad in which the State owns nearly all of the stock. This application was made by one Finch. Judge Purnell issued an order at Norfolk appointing McBee receiver of the road, without notice to the State. On the next day Judge Purnell came to Raleigh, and recognizing the fact that he had no right to appoint a receiver when out of the State, made another order again appointing McBee receiver. McBee immediately took charge of the road, and the State at once applied to Judge Simonton to vacate Judge Purnell's order appointing McBee receiver.

Before this application was heard by Judge Simonton warrants were issued for McBee and Finch for criminal conspiracy. This was heard before Judge Walter Clark, chief justice of the supreme court of North Carolina, and it was proven that Finch did not own a dollar in stock of the road and that there was a conspiracy to throw the property into the hands of a receiver. The defendants were therefore bound over to court to answer the charge of conspiracy, which is a felony in North Carolina.

JUDGE SIMONTON DISCHARGES RECEIVER.

When Judge Simonton heard the application to discharge the receiver, the receiver was promptly discharged and the railroad returned to its owners, the State of North Carolina. Judge Purnell expressed himself as "highly indignant," and said that he had been imposed on, and the people of North Carolina thought that this ended the effort of those who were trying to secure possession of the road through the receivership. Such was not the case, however, for a short time since another application was made to Judge Purnell to appoint a receiver for this road. This application was made by one Cuyler, and Finch was made a party thereto. Notice, however, was served on the State when this application would be heard by Judge Purnell, and when the same was heard the State was represented. A bond in any amount to be fixed by the judge, to protect the applicant to the petitioner from any loss he might sustain by permitting the property to remain in the hands of the State, was tendered by the State, but rejected by Judge Purnell. Judge Purnell, however, appointed T. D. Meares and V. E. McBee as receivers of the road, McBee being at that time under indictment found by the grand jury of Wake County for a felony.

The Raleigh News and Observer, which is one of the leading daily papers in North Carolina, of which Josephus Daniels is editor, in commenting on this action of Judge Purnell, made severe editorial comment. The issue of Sunday, May 29, being especially vigorous, so much so that it aroused Judge Purnell very greatly. On Monday he issued an order on Daniels to appear before him Tuesday, May 31, at 10 o'clock and show cause why he should not be attached for contempt of court in writing and publishing the editorials which Judge Purnell complained of. The following are the editorials of Sunday, May 29, which aroused the judge and which he filed:

THE EDITORIAL WHICH GAVE OFFENSE—THE LATEST ACT IN THE ATLANTIC AND NORTH CAROLINA RAILROAD RECEIVERSHIP MATTER.

The fourth act of the Atlantic and North Carolina Railroad receivership play took place in the Federal court building in Raleigh yesterday afternoon, when Judge Purnell appointed T. D. Meares as receiver.

The first act took place in Norfolk, when Judge Purnell appointed V. E. McBee receiver upon the application of Finch, who did not own a share of stock in the road.

The second act took place in the Federal court building in Raleigh, when Judge Purnell, finding that his order in Norfolk was illegal because made outside of the jurisdiction of his court, ascended the bench and made the order over again.

The third act was pulled off with the same scenery some weeks later, when, after the conspiracy proceedings, the judge being "highly indignant," the receivership was vacated, the story of the McBee-Finch game of "bunco" having been exposed.

The fourth act in the same play drew a crowd to the Federal court building yesterday afternoon. It was at once apparent that the judge was determined to appoint a receiver, and after permitting the lawyers to talk a little he made the appointment.

Mr. Meares, who was named as receiver, is the man who was to assist McBee, who was first appointed receiver. Finch, who is now said to own his stock, was made a party. So we see that yesterday's appointment was but the finishing up of what was begun in Norfolk, for McBee and Meares are so close together that if one should be called Tweedledee the other would appropriately be called Tweedledum.

It is to be hoped that those newspapers—only a handful in number—which have been clamoring for Federal judge government of North Carolina affairs are satisfied. They seem to have lost sight of the fact that the State of North Carolina owns two-thirds of the stock in the Atlantic and North Carolina Railroad, and that under the law the board of internal improvements, of which the governor is chairman, is charged with the management of the property. Whether they manage it well or otherwise, they are responsible to the people, whose servants they are, and not to any Federal judge. The Federal court had no call to intervene. There is not an instance of a receivership of large property in this State that has not resulted disastrously. Can we expect any other result in this instance?

As evidence that Cuyler did not bring his suit to protect his $3,700 of stock (if, indeed, he has any stock at all) the State offered to put up a bond, in any sum, to guarantee him against loss. In the State courts a receiver will not be appointed for property if the owners in charge give bond to save a minority stockholder or creditor from any possible loss by reason of continuing in charge. The Federal court ought to, in matters relating to receiverships, in this follow the rules of State courts.

No stockholder up to this hour has ever complained to the board of internal improvements of any wrongful action. Cuyler has voted for every act criticised. Does he own and can he control the stock upon which this suit is predicated? Nobody believes this suit was brought for the correction of any evils, but for an ulterior purpose not now disclosed.

Judge Purnell graciously stated that a meeting of the stockholders to agree upon a lease would not be considered an act of contempt of his court, provided the lease they might agree upon were submitted to him! The day will never come when his permission will be asked by State officials as to how they shall perform the duty imposed upon them by the legislature. There is not a decent citizen of North Carolina who would ever forgive the governor of this Commonwealth if he humiliated it by submitting a lease to any Federal court. Some things

are higher than leases and rentals and dollars. One is whether the property of the people shall be governed by servants of their choice or by Federal judges in whose selection they have no voice. If their servants commit mistakes or wrongs, the people can correct them. If Federal court judges, appointed by hostile Presidents upon alien recommendations, commit wrongs, there is no immediate remedy. The legislature has full power to make a thorough investigation into all agreements and understandings which have been entered into, and if the governor should call a special session for that purpose the whole inception of this affair might be laid bare to the public gaze. It would have the power to examine everybody and will probably to so. The full disclosure of all the motives and ulterior purposes behind this application by Finch and Cuyler would be interesting and salutary.

Of course the State appealed. The appointment of a receiver was expected, and the State was ready last night with the papers and the bond. The matter will be heard before the circuit court of June 28. If the owners of three-fourths of a piece of property have rights superior to that of one $3,700 stockholder in a company of $1,800,000, the property will be restored to its owners.

Wrong may triumph for a time, but right will eventually be established. The men who are laughing now will be found weeping when the real truth is brought to light, as it will be as sure as God reigns in the heavens.

In addition to this direct and vigorous editorial drubbing, there appeared on the editorial page of the same issue a number of sharp paragraphic criticisms, among which were the following:

McBee had a job with the Seaboard and lost it. Purnell gave him a short job as receiver. Meares had a job with the Seaboard and lost it. Purnell has given him a job as receiver. Finch had a job with the Seaboard and lost it. Purnell heard his prayer and appointed his friend receiver.

One of the men sentenced to jail for contempt by Judge Peebles is a lawyer of thirty years' active practice. He will escape the penalty. It seems to be the unwritten law of North Carolina that no lawyer shall be convicted in the courts and that no judge shall be impeached. Is that long-standing record to be broken?

People ought to have respect for judicial officers, but judicial officers ought not to be "usurperious and pomperious."

It is a thousand pities that Congress did not impeach that Florida judge before it adjourned. The impeachment of an unworthy Federal judge in the South would be as wholesome as a refreshing rain after a long drought—"as vernal showers to warm flowers."

The next legislature should change the laws for contempt if a judge may fine or imprison a man for giving an affidavit against a judge. If he gives a false affidavit, the libel law is open to a judicial officer as to all others and the person making it can be convicted of perjury.

If every man in North Carolina who has at any time expressed contempt for some act of a Federal or State judge should be sent to jail, the jails would have more people in them than are outside of prison walls.

If any man swears to a falsehood about a judge, he should be punished for perjury, but he should be tried and convicted by a jury of his peers and not summarily punished by the judge interested.

Government by Federal judges was not contemplated by the founders of this Republic.

The State will be astonished to read that Judge Peebles has fined three affidavit makers $250 fine and sentenced them to jail in the contempt case. And now we may look for testimony pro and con as to those affidavits. If this affidavit business continues daily newspapers will have to be printed on a composition of asbestos and rubber. They are too hot for plain paper and too long for any sort that will not stretch.

In the same issue of that paper, in the news column, was an account of the action of Judge Purnell in appointing Meares and McBee receivers of the Atlantic and North Carolina Railroad. The article was headed "The thumb was turned down—In the Federal court arena death was decreed for the Atlantic and North Carolina gladiator." The article began with this comment:

"Once there was a judge sitting in trial of a case. He heard at length, with the utmost attention and patience, the complete argument of the plaintiff, and when the lawyers at last ceased and closed their case, he started to render his judgment, with the utmost confidence. Of course the lawyers on the other side, aghast at such snap judgment, arose as one man and protested that he should hear their side of the case. At last the judge, with some misgivings, however, agreed to hear the other side. He listened to a long argument then, with an air of long-suffering patience and a perplexed look on his face, which gradually grew into a look of dismay. Finally the last lawyer took his seat, and the judge slowly looked around the court room and said: 'Gentlemen, if you had permitted me to announce judgment some time ago, when I wished to, I could have done so, but now you've mixed me all up!'"

Judge Purnell was not like that judge. His mind was made up when he came into the court, apparently, and he appointed a receiver for the Atlantic and North Carolina Railroad Company, at least, temporarily, until the final judgment in this hearing, which he continued before S. C. Ryan, of this city, as special master, to hear the evidence and report before July 15.

In the meantime, Thomas D. Meares, of Wilmington, is appointed receiver to take charge at once, and the restraining order is continued. This, the judge said, will not prevent the stockholders from meeting and determining the question of accepting a lease proposition. Of course, he said, the court could not lease the road, but if the stockholders should decide to lease it, they could submit the proposition to the court, and if the court approves it, the receivership will be vacated. This was stated by the court, because yesterday morning Mrs. F. P. Tucker and Dempsey Wood, private stockholders, represented by Judge T. B. Womack, joined in the suit with the defendant railroad for the purpose of praying for a continuance of this hearing in order that the stockholders might meet and vote to lease the road. Judge Womack will now use every endeavor to bring about a stockholders' meeting as soon as possible.

Counsel for the Atlantic and North Carolina appealed the case to the United States circuit court of appeals at once. The hearing yesterday was over a little after 5 o'clock, and before 7 the appeal bond had been given, the citation by the other side completed, and the hearing of the appeal set for June 28 at Richmond. That is said to be the quickest appeal completed on record.

DANIELS FINED $2,000 FOR CONTEMPT.

The contempt order was served on Mr. Daniels on Monday, and Tuesday morning, in company with his attorneys, he appeared before Judge Purnell and asked for time in which to prepare an answer to the rule to show cause why he should not be attached for contempt. Judge Purnell declined to give time, but finally consented to permit the defendant long enough time for the stenographer to finish his answer, which was being typewritten at that time. Mr. Daniels filed an answer, in which he admitted the publication complained of, but denied that it was libelous, and said that, as editor of the News and Observer, he conceived it to be his duty to freely and fearlessly discuss all matters of a public nature which concerned the people of the State of North Carolina; that the said articles were conceived, prepared, and published by him in order that the people of the State might be informed concerning a matter in which they were vitally interested. He denied that the publication was in the presence of the court, or that the court had jurisdiction to try and punish him for contempt in making said publication. The judge, in an angry manner, announced that "the defendant is adjudged guilty of contempt of this court, and it is a sentence of the court that the defendant pay a fine of $2,000 and stand committed until the fine and costs be paid."

Judge Winston, representing Mr. Daniels, asked the court to hear hear Judge Winston or to look at his authorities, and declined to grant defendant had the right to appeal. The court peremptorily declined to hear Judge Winston or to look at his authorities, and declined to grant an appeal or to fix a bond, and committed Daniels to the custody of the marshal until the fine and costs were paid.

FRIENDS RUSH TO PAY FINE.

No sooner had the notice of a fine of $2,000 fallen from the lips of Judge Purnell than there was a rush of men who fought their way through the dense crowd to be the first to contribute toward the payment of the fine. In a moment men were thrusting big handfuls of bills and checks into Doctor Daniels's lap. For several minutes he was busy declining these well-meant and comforting offers of assistance. It was the crowd's substantial, impulsive method of expressing the opinion that became general on the streets that the fine was one arbitrarily imposed for the courageous performance of conscientious duty.

As soon as sentence was announced, Editor Daniels stated that he would not pay a cent. "I will rot in jail first," he said, and in this determination he was applauded by his friends. He was at once taken into custody by the United States marshal and was held in custody in room 28 at the Yarborough House. Steps were taken at once to secure a writ of habeas corpus.

Editor Daniels stated in his editorial published next morning, written while in the custody of the United States marshal: "I have done nothing to justify the order of the judge under the Constitution and laws of this country. I have written freely, fearlessly, and plainly in criticism of a wonderful act of a Federal judge. If I had written a line less, I would have lost my self-respect, been untrue to my convictions, and unworthy of the position I hold. An editor owes a duty to the public. He has no higher duty than to criticise, 'unawed by influence and unbribed by gain,' the unwise, arbitrary, or injurious public action of public officials. If he fails to criticise such action as that of Judge Purnell on last Saturday, he is not worthy to belong to a profession honored by Seaton Gales, Hale, Englehard, Saunders, Josiah Turner, and other men who have made the annals of North Carolina journalism the brightest page of North Carolina. My criticism of Judge Purnell was true, it was moderate, it was as plain as language could make it. Before I would retract a solitary sentence of that editorial or abuse myself I would rot in a dark dungeon all my days. If editors must crawl in dust before Federal judges and make obeisance to them and permit them to become censors, it must be so declared by the Supreme Court of the United States. Until that tribunal makes that decision I will continue to exercise my right and duty to freely criticise the public action of any official."

The people in every part of the State were aroused by the arrest and imprisonment of Daniels as they have not been since the days of reconstruction, and there is generally held the opinion that Judge Purnell made a very serious mistake in attaching Mr. Daniels for contempt. Letters and telegrams and offers of assistance, financial or otherwise, came to Mr. Daniels from every section of the State.

UNITED STATES SUPREME COURT INTERFERES.

On the next morning after Mr. Daniels had been placed in custody, Chief Justice Fuller, of the United States Supreme Court, made an order vacating Judge Purnell's order appointing Mears and McBee receivers of the Atlantic and North Carolina Railroad, and on giving the bond, the property was taken possession of by the State. The receivers at first refused to surrender the property, and Governor Aycock notified the officials of the railroad company to take possession; that the entire power of the State would be used, if necessary, to put the receivers out and the officers of the railroad in possession of the Atlantic and North Carolina Railroad property. On this sort of an intimation the receiver retired, and the Atlantic and North Carolina Railroad property is now in the hands of its owners.

Attorneys of Mr. Daniels applied to Judge Pritchard, who had just been sworn in as United States circuit court judge, for a writ of habeas corpus, which was issued by Judge Pritchard and set for hearing in Raleigh at 3 o'clock Friday, June 3.

After this writ of habeas corpus was granted by Judge Pritchard Judge Purnell made an order in which he said that he would grant Mr. Daniels an appeal, which right had been denied when he was before the court and his attorneys asked for the benefit of an appeal. The writ of habeas corpus was heard before Judge Pritchard in Raleigh Friday afternoon and the prisoner released (The Constitution, Atlanta, Ga., Sunday, June 5, 1904.)

Mr. TILLMAN. Mr. President, I wish to have read also an editorial from The State, of Columbia, S. C., and I do it because it does the fullest possible justice, and not only that, but speaks in the most complimentary way of our former colleague, Jeter C. Pritchard, who was once a Senator here from the State of

North Carolina, and is now a United States circuit judge in that State. I am the more gratified because of his action in this case, which shows that he is an ornament to the bench.

The VICE-PRESIDENT. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

THE RIGHTS OF THE PRESS.

There is no overestimating the importance of the decision of Judge Jeter C. Pritchard in the case of Editor Josephus Daniels.

The setting free of the editor, held by a district judge for contempt of court, has been followed, as promised, by a written opinion from the new circuit judge And that opinion justifies the selection of the ex-Senator as the successor of Simonton. It is a complete yet concise presentation of a most important question—the right of a judge to jail an editor who criticises his judicial acts after the case has been concluded.

The history of this case is familiar. The Raleigh News and Observer severely condemned Judge Purnell for his action in the matter of a receivership for the Atlantic and North Carolina Railroad Company, whereupon Judge Purnell had Editor Daniels arrested and adjudged him guilty of contempt of court, sentencing him to pay a fine of $2,000, and refusing an appeal. Upon a writ of habeas corpus the editor went before Circuit Judge Pritchard, and Mr. Daniels has secured not only his liberty but also a valuable definition of the right of the press to criticise officials, whether they be judges on the bench or what not.

In the synopsis of the opinion published in this paper yesterday, the following must have struck every reader's attention as a declaration sound in law and reason:

"That newspapers sometimes engage in unwarranted criticisms of the courts can not be denied. In some instances they construe the liberty of the press as a license to authorize them to engage in a wholesale abuse of the court, but those instances are rare and do not warrant a departure from the well-settled principles of the law as declared by Congress and construed by the courts. If judges charged with the administration of the law are not to be criticised on account of their official conduct the liberty of the press is abridged and the rights of individuals imperiled.

But Judge Pritchard went further than that. He had already quoted authorities to show that "mere libels on a judge, as a man and an officer, printed in a newspaper, are not contempts;" that a judge must seek recompense for personal criticism in the same way as any other public official or any other private citizen; that while the office is to be respected, the court as a court, yet the judge as a judge and as a man must not expect to be shielded from criticism by the fact that he is in office. Having gone to the law books to show that this has been the ruling wherever the question has come up, and having enunciated the doctrine of liberty of speech as it may affect the bench, as quoted above, Judge Pritchard went on to elaborate that doctrine and to apply it to all public officials, laying down not only the law but the safe policy for officials to pursue as well. He said:

"While all citizens should entertain due respect for the courts of the land, it does not follow that editors and public speakers are to refrain from legitimate criticism of the acts of any tribunal. Such criticism should be invited by public officials in order that the people may fully understand what is being done by those who are acting as their agents in the administration.

"Public questions are generally settled in the right way, and the fact that such is the case is due in a large measure to their free and untrammeled discussion by the press of the country. The courts are constituted for the purpose of protecting the rights and liberties of the individual, and the enactment of any law which gives a judge the power to prevent the free and unrestrained discussion of questions which may come before the court for adjudication would in many instances defeat the very object for which the courts were established."

This is good law, and it is sound political principle. In the Daniels case the liberty of the press was seriously and unreasonably threatened, and it is reassuring to have such a clear, unequivocal declaration of the rights of public journals as Judge Pritchard has given. The News and Observer, the paper directly interested, does not exaggerate when it says:

"The decision of Judge Pritchard will be quoted in every State of the Union, will be printed in the publications of all editorial associations, and will be regarded as the most notable decision affecting the liberty of the press rendered in more than half a century. No one need fear that a decision so essential to the freedom of the press and to individual liberty will lessen the respect of the people for the courts. It will increase their respect a hundredfold. Every editor knows that if he indulges in undeserved criticism of judicial officers his paper will lose power and usefulness. The decision will have the effect of adding to confidence in the judiciary, when men of learning and fitness are wearing the ermine. It will teach that the press has a right, which no judicial officer can summarily take from it, to freely and plainly criticise judges whose conduct demands criticism. It effectually ends petty judicial tyranny and assures to the people a free press—the only safeguard of their liberties."

That is undoubtedly a correct interpretation of the decision's effect. The conscientious editor is as careful not to abuse his privileges and powers as is the conscientious judge—and conscientious editors are about as numerous as conscientious judges. The press as a rule is quick to uphold the majesty of the law, quick to demand respect for the courts, but it is none the less zealous of its rights, which are the palladium of the people's liberties.

Mr. TILLMAN. Mr. President, as I said a moment ago, I take great pleasure in having that editorial inserted, because it does ample justice to, and also speaks in the most complimentary way of, former Senator Pritchard, who is now United States circuit judge in that circuit.

I now come to Florida. I could recite a story of some judicial transactions in my own State, that in outrage and tyranny, and everything almost that is indecent, surpass anything that I will put in the RECORD to-day; but the judge is dead, and therefore I have nothing more to say about it. He has settled his account somewhere else.

I have heard of some judicial transactions in Georgia, and one in Kentucky, which, if I had the time to get the facts, would be very interesting reading, as showing the unscrupulousness and criminality of these judges, who, once clothed with authority for life, exemplify the prophecy of Jefferson, that they would reach out and sneak over the fields of jurisdiction, here a little and there a little, like a thief in the night—I am not giving the exact words; I am giving merely the sense—and absorb and cover it all, leaving the States nothing.

I come now to Florida, as I said, and I want to incorporate in this catalogue a transaction of Circuit Judge Pardee in the case mentioned by the distinguished Senator from Texas [Mr. BAILEY] in his speech on the 20th of March, in which the facts are stated thus:

The Florida railroad commission enforces its orders by mandamus instituted originally in the supreme court of the State, and yet Judge Pardee has enjoined the Florida railroad commission and all of the State officials from instituting suit in the supreme court of the State by mandamus to compel the Louisville and Nashville Railroad Company to reduce its passenger fare from 4 cents to 3 cents per mile in Florida, and this injunction was granted upon the affidavit of the vice-president of the Louisville and Nashville Railroad to the effect that the Louisville and Nashville property in Florida is worth at least $5,200,000—this high valuation being essential to their case—and the State produced an affidavit made by the same man one month and twenty-eight days prior to his swearing to the bill, in which affidavit he had sworn that the identical property was not worth exceeding $1,700,000; and yet on this man's affidavit the State was temporarily restrained from instituting mandamus proceedings in the supreme court of Florida to enforce compliance with the rate.

The legislature changed the rate for passenger traffic from 4 cents to 3 cents per mile, and in this proceeding before Judge Pardee the transaction just as I have read it is of record, and that, too, in the face of this statute, Mr. President. I read from section 720 of the Revised Statutes:

SEC. 720. The writ of injunction shall not be granted by any court of the United States to stay proceedings in any court of a State, except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy.

But what does one of these railroad judges, as I have dubbed them, care for statutes? The Senate has given them a free rein in dealing with railroads, or with anything else, by its refusal to impeach one of them, it does not matter what transactions may be proved, what villainy, infamy, and outrage may be brought here and sworn to and rendered beyond controversy. This high court, which should protect the people against such judges, from partisanship or some cause—I am not prepared to say, because I was not here at the trial—refused to give the country any protection, and the judge was turned loose with absolute immunity, told to go on his way, to do his dirty work, and obey the railroads that own him apparently.

The country looks on, and when we try in this bill to provide that a railroad rate fixed by this high Commission of seven, getting high salaries, so as to command the best talent in the country, to determine what is a just and reasonable rate—instead of letting that rate hold good and go into effect, these sacred creatures must be left free to do their own will, to issue their decrees of injunction on any kind of hearing or on no hearing. This man Pardee ought to be impeached. He knew the statute was in the laws of the country. He had sworn to support the law and the Constitution, yet, in direct violation of both, he orders the authorities of the State of Florida to cease from interfering with this railroad and enjoins them from collecting taxes.

But what if the people of Florida through their Representatives in Congress were to bring him here for trial? Who imagines that there would be enough votes to turn him out? I imagine that when the votes on this issue as to whether or not these judges shall be limited in their power is had, we could get a pretty fair idea of how many votes would go against any impeachment proceedings against any one of them, because, if a Senator will not limit the power of these courts under the conditions which would obtain, will not even try to do it by voting for some provision in this bill which will give us protection, he certainly would not vote to impeach a man, even though we proved him directly violating his oath of office and invading the rights of the people and of a State.

I come now to the last and in some respects the worst of the lot. It is so fresh in the minds of Senators that I hardly think it worth while to read it. It is the Swayne case—the judge in Florida who acted in such an outrageous manner in his dealings with the lawyers and the interests and persons and liberties and rights of the people there that the House of Representatives impeached him, but the Senate could not see it in that way. Of course I must consider that Senators voted as their consciences dictated, and therefore will not say anything more about it. But when the people are left helpless in the hands of these judicial officers who have life tenures, and the only protection under the Constitution, which is impeachment, will not work, how can Senators expect the people of the country to have that faith, confidence, and respect in the judiciary

which we all know ought to obtain and which we should like to render unto them?

Mr. President, I ask permission, without reading, to insert in the RECORD the facts in relation to the Swayne case, sent to me by Representative LAMAR, of the Florida delegation.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from South Carolina?

Mr. SPOONER. I ask that the paper may be read.

The VICE-PRESIDENT. At the request of the Senator from Wisconsin, it will be read by the Secretary.

The Secretary read as follows:

JUDGE SWAYNE'S CASE.

In 1892 the Florida Central and Peninsular Railroad, in the State of Florida, filed its bill to enjoin the collection of $96,000 of back taxes upon its constituent lines of road, which had been levied upon on behalf of the State of Florida. The litigation lasted for quite a number of years. The supreme court of Florida finally settled every State question involved in the litigation in favor of the claim of the State for back taxes. The case was carried to the Supreme Court of the United States by the railroad company.

There, so eminent an attorney as the Hon. Wayne MacVeagh argued all the Federal questions involved on behalf of the railroad company. The Supreme Court of the United States decided all Federal questions raised adversely to the railroad company and affirmed the judgment of the supreme court of the State of Florida.

The whole proceeding was a direct proceeding between the State of Florida and the railroad company for the collection of a debt, viz, taxes, which, under the decision of the two courts, was the highest obligation resting on the property of the railroad company.

And yet, in the face of both of these court decisions, Judge Charles Swayne, United States district judge for the northern district of Florida, enjoined the State of Florida, through its comptroller, from selling under levy the property of this railroad company and collecting its just debt against it.

And the injunction he issued against the comptroller was issued without giving any notice to him and without requiring any bond from the railroad company before issuing it. The injunction was issued on behalf of the Central Trust Company of New York, which held the bonds of the railroad company.

The action of Judge Swayne was "government by injunction," about which we have heard considerable complaint in late years. The suit on behalf of the Central Trust Company was purely a dilatory proceeding and a mere constructive proceeding to hold the State off from its just rights in the matter, to save to the railroad company the interest which would accrue by nonpayment of the amount due.

The State of Florida, by its attorney-general, submitted a demurrer to the bill filed by the Central Trust Company, and also interposed a plea of res adjudicata, setting up the decisions of the courts in favor of the State of Florida. The demurrer and pleas were argued before Judge Swayne by an able lawyer, then attorney-general of Florida, Hon. J. B. Whitfield, who is now a member of the Florida supreme court.

Judge Swayne overruled the demurrer and plea. An answer and replication were filed, but before the case ever went to a hearing the railroad attorneys, who had no confidence in their case, paid the full amount of $96,000 to the State of Florida. The railroad company, under Judge Swayne's injunction, had obtained two years' delay and was "in pocket" at least $10,000 in interest saved.

The railroad attorneys, on behalf of their railroad client, paid the amount to the State, not because they doubted Judge Swayne's decision in the matter in their favor, but they must have felt that such decision would have been promptly reviewed in the Supreme Court of the United States, and their whole proceeding of delay and obstruction would be thrown unceremoniously out of court, and that Judge Swayne might possibly have gotten a stinging rebuke from that tribunal. When all the delay practically possible had been obtained, then, of course, payment was made.

Eleven counties in Florida were entitled to about $50,000 of these back taxes. Some of these counties issued bonds before the civil war to aid in the construction of a portion of the lines of this railroad. These back taxes belonged to the school funds of the counties, and a portion of it was to pay interest on the very bonds issued by the counties in aid of the construction of this railroad.

There was no excuse at all for Judge Swayne's action in this matter. It was a flagrant case of knowing, willful wrongdoing. I should have included his action in this matter in the charges laid against him in the House of Representatives for his impeachment but that I knew he and his defenders would fall back at once for justification upon "error of judgment."

Mr. TILLMAN. Mr. President, I have nothing more to say. I am sorry to have trespassed upon the patience of the Senate with this long recital of facts, but I thought it a good thing to do. There is need of some physic somewhere, and if the Senate can be made to understand that these judges ought not to be left to roam up and down the land and lend themselves to any and every dirty transaction that a railroad wants done, and obstruct every effort to relieve the country, to relieve the people, that is all I hope for; and if I can get anything——

Mr. BACON. Will the Senator from South Carolina permit me to ask him a question before he takes his seat?

Mr. TILLMAN. Certainly.

Mr. BACON. The Senator from South Carolina, I presume, knows the fact that in the equity practice of the United States there is no jury; in other words, the final decree is made by the judge. The point to which I wish to direct the Senator's attention is the fact that the judge who would pass upon the question of an interlocutory decree is the same judge who would finally pass upon the question whether or not there shall be a permanent injunction. The question I want to submit to the Senator is this: If among these judges, taken as a whole—not all of them—but if there are among them generally so many objectionable practices and characteristics, as they have to pass upon it finally, in what way does the Senator propose that as to final injunction the people can be protected from these "corrupt" and "dissolute" and "unworthy" judges?

Mr. TILLMAN. By decree of the Supreme Court. I want the judge to try the case according to the constitutional requirements, but I do not want him to half try it, or to pretend to try it, and take advantage of the opportunity offered by some lying complaint, like that of this railroad official in Florida, who goes in and swears to one thing when it comes to the value of the property for taxation and turns right around and swears to another when it comes to valuing the property in regard to constitutional rights. I do not want that sort of thing to be permitted by the Senate. The Supreme Court may declare the provision unconstitutional, but let us give the court a chance. I want to give the people the benefit of the doubt.

In regard to fixing rates by the Commission, let the rate go into effect; let the appeal of the railroad company go to the court; let the court try it, not issue any preliminary order, but try it all, and send it up to the Supreme Court. That is my contention.

Mr. BACON. If the Senator will permit me, I wish to ask him a question: What does the Senator propose to do between the time of final decree by the circuit court and the hearing by the Supreme Court?

Mr. TILLMAN. Do nothing except let the decree by the circuit court stand. If it is by injunction, let the injunction hold, but rush the case to the Supreme Court in the most expeditious way possible and get the decision of that tribunal, so that the matter will be settled once for all, either by reversing the circuit court or by indorsing its action.

Mr. BACON. I understand, then, that the Senator does not propose to interfere in any manner with the operation of the injunction, when that shall be ordered by the circuit court, between its issuance and the time it goes to the Supreme Court?

Mr. TILLMAN. I want a full hearing before the circuit court grants the injunction.

Mr. BACON. I understand, but I repeat the question. I understand the Senator does not desire to suspend in any way the operation of that injunction after the final decree by the circuit court and between that time and the final decision by the Supreme Court?

Mr. TILLMAN. Of course not.

Mr. BACON. Of course not. I simply wanted to know.

Mr. TILLMAN. No amendment like that has been offered by anybody here.

Mr. BACON. I understand, but I wanted to call the Senator's attention to the fact.

Then, as I understand, the objection of the Senator is not so much to the character of the judges, to their "unworthiness" and to their "disposition to do wrong," as it is to the fact that they might hear it and make an interlocutory decree without having sufficiently investigated the case.

Mr. BAILEY. Will the Senator from South Carolina permit me?

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Texas?

Mr. TILLMAN. Certainly.

Mr. BAILEY. I wish to suggest to him that if a preliminary injunction is issued by the judge, then the trial of the case may be postponed in the pleasure of the judge, and thus it might be three years before it reaches the Supreme Court of the United States. But if no such order can be issued until final judgment, then the trial is direct and prompt.

Mr. SPOONER. Will the Senator from Texas allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. BAILEY. I yield, with the permission of the Senator from South Carolina.

Mr. TILLMAN. Certainly. I yield the floor to you three lawyers. I have got you started again.

Mr. SPOONER. Is there not an appeal from the order of the circuit court of the United States granting or refusing a preliminary injunction?

Mr. BAILEY. There is not in the absence of a direct statute.

Mr. SPOONER. Is there not a direct statute providing for it?

Mr. BAILEY. I am not sure, and I would not say without an examination that there is a direct statute which would cover this case.

Mr. SPOONER. I think the Senator will find there is.

Mr. BAILEY. I would not be willing to say positively that the statute as it stands to-day covers this case.

Mr. SPOONER. I think we passed one within the last four weeks.

Mr. BAILEY. If we have passed an act within the last four weeks, I candidly say it had escaped my attention. Will the Senator from Wisconsin tell us if that bill has also passed the House of Representatives?

Mr. SPOONER. It passed the House first, did it not? I ask the Senator from Georgia.

Mr. BACON. It passed the House, and then was passed by the Senate with an immaterial amendment, a matter of form, and sent back to the House. But I will say to the Senator that that was simply an amendatory act as to one feature of the law. The general law which gives an appeal from an interlocutory decree of the circuit court of the United States to the circuit court of appeals has been upon the statute book some six or seven years.

Mr. BAILEY. My own impression is that there would be no appeal from an interlocutory decree in this case. The Senator from Wisconsin nods his dissent from that. He will note I said "my own impression is." I venture to go no further than that at this time. But the Senator from Wisconsin and I will agree that unless there is a statute which allows an appeal, no appeal can be taken from an interlocutory decree. The Senator from Wisconsin will agree to that?

Mr. SPOONER. Certainly. But as I understand the law to be, there has been, for I do not know how many years—the Senator from Georgia said six or seven——

Mr. CULBERSON. It is the act of 1891, creating the circuit court of appeals, which allows an appeal from the appointment of a receiver or the granting of any temporary restraining order in injunction cases by circuit courts or district courts.

Mr. BAILEY. But the proposition here is not to appeal from the circuit court to the circuit court of appeals, and that is why I say my impression now is that the general law would not reach this case. It is evident that the general law did not reach all the cases, because the statement here is that within four weeks Congress has been called upon to amend the law in a certain particular.

Mr. SPOONER. The amendment was proposed because as the law had been construed, as I understand, there had been an abuse under it, because in the pleadings they raised constitutional questions and took the cases to the Supreme Court.

Mr. NELSON. Will the Senator from Texas allow me to state the facts?

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Minnesota?

Mr. BAILEY. I am always glad to hear a fact.

Mr. NELSON. The bill to which the Senator from Georgia and the Senator from Wisconsin refers has passed and become a law, I think, more than a week ago. I have seen it in print as a statute. Under that statute appeals will lie to the circuit court of appeals from a temporary or preliminary injunction.

Mr. BAILEY. But the proposition here is not to go to the circuit court of appeals from the circuit court that tries the case. The appeal here, as I understand, will go direct to the Supreme Court of the United States. Whatever else may be the final determination of the Senate, I sincerely hope the appeal will be allowed direct from the court that tries the case to the Supreme Court of the United States.

Mr. SPOONER. That is easy.

Mr. BAILEY. I know that is easy, and that is what I have proposed in the amendment which I had the honor to offer. So far as I know, there is in the Senate a general concurrence that there shall be only one appeal allowed, and that shall be direct to the Supreme Court of the United States.

Mr. SPOONER. Mr. President——

Mr. BAILEY. In a moment. Then, if that is true, I reiterate my impression that the general law would not cover an appeal from the circuit court which had granted an interlocutory decree or injunction, to the Supreme Court of the United States, and the circuit court of the United States would not, in my judgment, have jurisdiction in that case, because it would have no appellate jurisdiction at last over the decision of the circuit court which tried the case. Therefore it seems to me that either we must allow this appeal to go from the circuit court that tried it to the circuit court of appeals or else, passing the circuit court of appeals and allowing the appeal direct to the Supreme Court of the United States, we must make some provision——

Mr. SPOONER. Of course the Senator from Texas——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. BAILEY. If the Senator will pardon me for a moment, I understand that he assents to my proposition that there can be no appeal from a preliminary injunction order unless the statute specifically allows it. We agree on that, I believe?

Mr. SPOONER. Of course we agree to that, and the Senator has had no occasion to have any difference of opinion with me on that subject, because I have repeatedly said, and the Constitution so provides, that Federal jurisdiction is entirely under the control of Congress. The appeal to which the Senator alludes, speaking of the bill generally, is from the final decree direct to the Supreme Court. It is entirely within the constitutional competency of Congress to regulate that. It is no less within the constitutional competency of Congress to provide for an appeal direct to the Supreme Court of the United States from any order granting or refusing an injunction, and giving it preference in the Supreme Court of the United States.

Mr. BAILEY. The Senator and I have no difference about that. I think nobody questions that we can grant an appeal direct from the trial court to the Supreme Court of the United States, and that is precisely what I propose to do.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to his colleague?

Mr. BAILEY. Certainly.

Mr. CULBERSON. I desire to make a statement with reference to the statute now under consideration.

Mr. President, the act of 1891 creating the circuit court of appeals permits appeals from orders appointing receivers and granting temporary restraining orders in injunction cases directly to the circuit court of appeals. It also permits appeals in certain other cases to the circuit court of appeals. In the third place, in cases involving the construction of the Constitution of the United States, as this bill will certainly do, because the general proposition is to confine the interference of the courts to constitutional questions, that statute expressly authorizes an appeal from the circuit court direct to the Supreme Court of the United States.

But my colleague is entirely correct in saying that in that case there would be no direct appeal to the Supreme Court of the United States from an order granting a temporary writ or restraining order, but there would be from the final judgment on the question.

Mr. BAILEY. That is my understanding. I will be careful, and again say it is my impression.

But the purpose for which I rose was to explain why it is that it is deemed important to deny even to an inferior judge—and I use that adjective to describe the judge rather than his office; I will not say a corrupt judge; I will simply say an inferior one—the power to grant a preliminary injunction, though we recognize that at last he will have the power to grant a final injunction. If he sought to abuse his great office, he could grant a temporary injunction, and he could hold that matter in his court, from month to month and from year to year, because the granting of a continuance rests as a rule in the sound discretion of the court, and for one cause or another he could continue the case from term to term until two or three years might elapse before the case would be finally decided.

Now, if this judge is denied the power to grant a preliminary injunction, the railroad itself becomes intensely and immediately interested in a prompt and speedy trial; the case is tried without any unnecessary delay; and though a bad judge renders, as bad judges always will, except by accident, a bad judgment, there is a prompt appeal from his decision to a forum which is free from any suspicion of wrong or injustice. While we can not entirely take this case away from a judge whose partiality we may suspect, our purpose is to prevent him from deciding it at all until he decides it in a way and form that gives a prompt appeal to another and a better tribunal.

Mr. KNOX obtained the floor.

Mr. TILLMAN. Before the Senator——

The VICE-PRESIDENT. The Senator from Pennsylvania has been recognized.

Mr. TILLMAN. I should like to ask a question of the Senator from Georgia, who asked me some questions. I want a little light on one point.

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from South Carolina?

Mr. BACON. I think I have the floor. I never yielded it.

The VICE-PRESIDENT. It is possible, but the Chair first observed the Senator from Pennsylvania.

Mr. BACON. I am speaking of a time before this discussion commenced. I had the floor and did not yield it.

Mr. KNOX. I gladly yield to the Senator from Georgia.

Mr. TILLMAN. I want the Senator from Georgia to give me light on this point: Suppose an appeal is taken from the finding of the Commission, its order, and the judge is permitted——

Mr. BACON. The Senator means if a bill is filed. There is no provision in this bill for an appeal.

Mr. TILLMAN. You understand what I am driving at, so far as results go, without regard to technical language. I

mean suppose the Commission's order is attacked in court by the carrier.

Mr. BACON. Very well.

Mr. TILLMAN. Then the judge grants a preliminary suspension order or injunction, and the Senator pointed out, I believe, that this act which I hold in my hand gives the right of appeal from that to the circuit court of appeals.

Mr. BACON. No; not in this bill, but the general law.

Mr. TILLMAN. The new act to which allusion has been made.

Mr. BACON. Go on.

Mr. TILLMAN. What becomes of the rate? Does the rate go on while this appeal is going on to the Supreme Court; and then if the rate is suspended by a preliminary injunction, and the appeal to the circuit court or to the Supreme Court, either, is on a technicality, will the Supreme Court determine the whole case or will it merely determine the point before it and send it back for further action below, thereby playing battledore and shuttlecock, and thereby doing nothing to relieve the shipper? That is what I am trying to get at.

Mr. BACON. Is that the Senator's question?

Mr. TILLMAN. That is the question. I have made it clear, or I hope I have.

Mr. BACON. The Senator always does.

The suggestion of an appeal to the circuit court was not made by myself, but by the Senator from Wisconsin. Under the present law, if there were an appeal given, it would go to the circuit court of the United States, unless the matter involved a constitutional question, when upon final decree it would go direct to the Supreme Court and not go to the court of appeals at all. I do not think, however, that the question of the learned Senator from South Carolina is very practical in its nature, from the fact that, as has been suggested by another Senator, the general consensus of opinion in the Senate, so far as I have been able to learn it, is in favor of an appeal direct from the circuit court to the Supreme Court. I know of no one who favors a measure which will give an appeal in a case of this kind from the circuit court to the circuit court of appeals. There is, so far as I know, a determination on the part of the Senate that there shall be only one appeal. There is one amendment pending—possibly there are more—providing for a direct appeal in these cases from the circuit court to the Supreme Court. I myself would certainly favor that provision of law. I think it would be a very great mistake to do otherwise and to have an appeal from the circuit court to the circuit court of appeals.

Now, as to what would be the effect of an appeal, is the Senator speaking of an appeal from the final decree or an interlocutory decree?

Mr. TILLMAN. There comes my trouble. There is my whole trouble. If the circuit court is left with the opportunity to partially adjudge the cause, and the appeal is made on that, it may go up to the Supreme Court and take a year or something like that—I do not know how long—to get it back. And then it will take another year for the inferior court to finish its judgment, and that will go up. I want to prevent that kind of business.

Mr. BACON. I think the Senator is very correct in his desire in that regard, and I entirely sympathize with him.

Mr. President, it is recognized by us all, I think, that when the Commission makes an order the public should have the benefit of that order promptly so far as is practicable. Of course the law's delays have been proverbial, certainly from the time of Shakespeare, and long anterior to that date. They have continued to this date, not because of any desire on the part of the lawmakers that there should be delay in the administration of the law, but because in the natural imperfection of all human institutions this has been found to be one of the difficulties which could not be thoroughly cured, where the effort to prevent delay is met frequently by the necessity to have delay in order that justice may be done. That necessity is undoubtedly frequently taken advantage of improperly, and the law's delays constitute a serious evil now, as they have constituted a serious evil from the beginning of courts.

In this particular case, I repeat, we all feel that the rate of the Commission should give to the public the benefit of the order made by the Commission as soon as practicable. There are two propositions, as I understand them, for the purpose of meeting that requirement. One is to deny to the courts the right to issue an interlocutory order. The other is one which, while I can not claim that it was in its entirety original with me, is an amendment offered by myself, in which it is proposed that there shall be no stay of the operation of the rate of the Commission by an inerlocutory order unless there shall be a requirement by the court of the carrier making the complaint and seeking the stay that he shall pay into court the daily proceeds from freight shipped over and above the amount specified in the rate of the Commission. In other words, if the rate of the Commission, for illustration, permitted $1 and the carrier's rate was $2 and he sought to have the rate of the Commission arrested, before such order could go into effect there must be another order which will require him to pay that additional dollar into court, not only on that day, but on each succeeding day, and also the machinery is specified for a return by the carrier to the court giving in detail the statement of all shipments thus made affected by that rate and the names of the shippers, so that upon the conclusion of the case the court can distribute this money, if the carrier's complaint is overruled, to the people from whom the money had been improperly collected, and if, on the contrary, the carrier's complaint shall be held to be valid, the money may be returned to him, that that may not be taken from him to which he is justly entitled.

I can not go into that now, Mr. President. Possibly when we come to discuss amendments I will go into it a little more fully, but I state it merely for the purpose of showing that there is not a monopoly of a desire to protect the interests of the public in this regard; that there is not a monopoly in this desire and purpose enjoyed by those who seek to accomplish the purpose by a denial to the courts of the right to use the process of injunction.

The Senate will mark the fact, Mr. President, that whatever else may be said about that proposition, there can be no doubt about one result from it, that is that the carrier having to pay this amount of money into court of the daily proceeds of his business over and above the Commission rate, he will be as extremely anxious as he could be made by any other process to expedite the proceeding in the courts. There would be no possible inducement to him to delay; on the contrary, there would be every possible inducement to him to expedite.

Having said that much, Mr. President, I desire to say further in regard to the proceedings in the courts that the rules in equity are, under our law, made by the judges of the Supreme Court. The rules in equity in the United States courts are extremely simple and extremely efficacious. It is possible for a case to come to trial in three months after the first rule day. Of course it is unusual that that should occur, because the taking of testimony and other matters in the trial of a case will frequently delay it beyond that time. But it is perfectly competent for the Supreme Court to make special rules for the trial of cases of this class; and I think it would be a much wiser plan to require by some provision in this bill that the Supreme Court shall make rules which will expedite the trial of the case in the circuit court rather than to attempt to accomplish this end by other means.

We have now on the statute books a law by which such cases are expedited on the trial upon an appeal from the final decree of the circuit court to the Supreme Court, and there is an amendment pending here to apply that particular machinery to cases which will be decided in regard to the rates made by the Commission.

But I think we should go further, Mr. President. It is not sufficient to expedite the trial of a case after it has been finally determined by the circuit court and when there is an appeal taken to the Supreme Court. There ought to be something which would insure the expedition of the trial after the filing of a bill and until the time when it is finally heard by the circuit court. While I believe there is no amendment pending to that effect, one, I imagine, can be framed, and I trust it will be brought before the Senate.

It is a great injustice to suggest that those who may not favor any particular proposition are therefore opposed to the same end which the author of that particular proposition may have in view. For myself, I desire that there shall be here a most efficient bill. I desire that there shall be a bill which, while it will do no injustice to any of the carriers, shall at the same time put them under the most perfect control in the matter of the regulation of their rates by the Interstate Commerce Commission. I believe that the death of competition—because that is the mildest word which can be applied to it—the absolute necessity which is upon every man to employ the agencies of the common carrier whether he wishes to or not, the absolute impossibility that he can employ any other agency, the consequent putting in the power of the carrier the arbitrary fixing of the rate, the absolute denial to the patron of the carrier of the opportunity to agree with him on the rate, the absolute necessity on the part of the public to accept the rate, make it an absolute necessity also that there shall be some one who will stand in a position to see that so great and so arbitrary a power is in no manner abused.

Mr. President, I say I desire earnestly the accomplishment of

that end. I desire not only that, Mr. President, but I desire that the machinery of this bill shall be so arranged that there shall be the most speedy accomplishment of the determination of the Commission as to what shall be the rate. At the same time I am also desirous that the great safeguards which our Constitution has thrown around the enjoyment of property by all persons shall also be enjoyed by these interests which we now assume and undertake and intend hereafter to control.

For these reasons I desire, as much as those who favor the particular amendment which is now under discussion, that there shall be provisions in this bill which shall prevent undue delay. I am in favor of having provisions in the bill which shall give to the public, so far as it may be practicable, the benefit, from the beginning, of the orders of the Commission, so far as that may be done without destroying the rights of other parties.

I recognize the fact that in the suggestion which I have made as to requiring railroad companies to put up a deposit or to pay into court moneys which are to be received over and above the amount specified in the orders of the Commission, there are grave difficulties, and that there are serious imperfections in the plan. I will be very glad to have those difficulties and those imperfections removed, if it is practicable to do so. I will not stop to discuss it now, because these amendments are coming before us for discussion, and when they do come I shall endeavor to speak with a little more definiteness as to the particular provisions of them.

While this is very disjointed, Mr. President, still I want to refer, in order that I may not be misunderstood, to my inquiry of the Senator from South Carolina, in which I used certain adjectives in connection with judges. I suppose it will be understood, but to guard against possibility to the contrary, I will say that those adjectives were intended to be in quotation marks, because I do not sympathize with the wholesale criticism which has been made of the judges of the United States courts. I have no doubt there are unworthy members of that high body of functionaries. It would be very remarkable if it were not so. I have no doubt there are many cases where judges have acted with harshness and with cruelty and with injustice. I will go further and say, Mr. President, that there is no court in this land, Federal or State, as to which, if parties litigant, who had been before the court, were allowed to present to the Senate their one-sided statements of their cases where they had been losers, those courts would be made to appear in a very unfortunate and more than unfortunate light before the public.

But, Mr. President, while it is true, as I have no doubt, that there are unworthy members, I believe, in the first place, that it is not true of the great body of judges of the courts of the United States. I believe that, taken generally, they are men of ability and men of character, and I say further, Mr. President, that while unworthy members of that official body should be sought out if possible and held to public view, it is a great mistake to attempt to magnify the imperfections of the judiciary and thus to try to bring them into contempt and disrepute before the people of the United States.

Mr. President, the great sheet anchor of conservatism in the United States must be with the courts, and whenever it comes to be that the conservatism of the courts of the United States can no longer be depended upon, it matters very little whether there is conservatism in the other branches of the Government.

Mr. TILLMAN. Will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Georgia yield to the Senator from South Carolina?

Mr. BACON. With pleasure.

Mr. TILLMAN. When there are so many evidences of usurpation of authority and of willingness to strain themselves to do things they ought not to do, as a matter of justice, and there is no remedy except by impeachment, does the Senator object to the attention of the country being called to these facts, and let the judges be put on notice, so to speak, that this body is thinking about what they are doing and what they have done?

Mr. BACON. Mr. President, the Constitution of the United States has invested in this body a very high function with regard to the judiciary, but it has not invested this body with the function of originating charges against the judiciary. The Senator should not forget, it seems to me, that while, of course, there may be occasions when it is proper—I do not deny that, but I am speaking generally—the Senate should not act upon the general assumption of that which is now suggested by the Senator, that in such criticisms of the judiciary, in such reviewing of their general course, and in such animadversions upon their particular acts we should put them upon notice of the fact that we are watching them. I say, Mr. President, if that general plan is pursued by the Senate we will have invaded the functions of another branch of this Government, and we will have done what is worse—we will have, by prejudgment, in a measure disqualified ourselves for the proper performance of the high function with which the Constitution of the United States has clothed this body.

Mr. TILLMAN. Now, will the Senator allow me to ask him another question?

The VICE-PRESIDENT. Does the Senator from Georgia yield further to the Senator from South Carolina?

Mr. BACON. I do.

Mr. TILLMAN. Did the Senator vote to impeach Judge Swayne?

Mr. BACON. I certainly did, and I would do so again.

Mr. TILLMAN. The other——

Mr. BACON. The Senator will pardon me; I must answer his question; and then I will yield to another question. I voted, Mr. President, for the impeachment of Judge Swayne, and I did so in the direct exercise of the exact function that the Constitution of the United States had devolved upon me as a Senator. I not only voted for his impeachment, but I very deeply regretted that other Senators in this body did not agree with me, according them, however, fully the merit of conscientious judgment as I fully claim for myself. I thought that his impeachment was demanded, and therefore I voted for it.

But, Mr. President, before that impeachment trial came I was not here ventilating before the Senate what I now believe, and what I then believed—because I knew of many of the things—to be the improper conduct and acts of Judge Swayne. But it would not have become me then, before the House of Representatives presented at the bar of the Senate those articles of impeachment, to have brought before the Senate questions as to whether he had done right or wrong or had been corrupt or unworthy in his high office.

Mr. TILLMAN. If the Senator will permit me——

The VICE-PRESIDENT. Does the Senator from Georgia yield further to the Senator from South Carolina?

Mr. BACON. I do.

Mr. TILLMAN. I understand the Senator by his language intends to criticise unfavorably my action to-day, and while I recognize the nice sense of propriety and the keen, I might say the almost squeamish, regard of the Senator for doing things diplomatically and in a parliamentary way, I want to ask him whether these judges are any more above criticism or are they more absolved or drawn apart, as it were, from criticism of their acts by a Senator than the Supreme Court has been by others—Lincoln, for instance, in several of his speeches on the stump and probably in the halls of Congress, when he found fault with the Dred Scott decision? There have been numerous instances in which the judges have been criticised, and while the Supreme Court is a coordinate branch of the Government entirely independent of the Senate and Congress, does the Senator think that it is improper or an invasion of the rights of the courts for a Senator to express his opinion upon transactions which these men perform or acts which they do which are unworthy or unlawful? For instance, take Judge Pardee——

Mr. BACON. I hope the Senator will put his question in such a shape that I can answer it and that he will make it concise.

Mr. TILLMAN. Well, what does the Senator think about the criticism of Judge Humphrey by the President the other day? Was not that straining the Executive authority and going outside of the proprieties?

Mr. BACON. The Senator is wandering from the particular question we are investigating.

Mr. TILLMAN. I have been wandering around until I have got the Senator in a place where he does not want to answer, I am afraid.

Mr. BACON. The Senator wanders. He presents one question and then wanders to another, and at the end there is no particular question asked.

Mr. TILLMAN. I have asked half a dozen. Let the Senator answer them at once.

Mr. BACON. I have no hesitation in my mind as to what the President said with reference to Judge Humphrey, but this is not the place to say it—not under these circumstances at least. However, as the Senator, with his usual soft and gentle way, is suggesting that I am not answering his questions and that he is wandering around in a way that has lost me in a maze that I am not capable of replying——

Mr. TILLMAN. If the Senator will excuse me, I had not intimated——

The VICE-PRESIDENT. Does the Senator from Georgia yield further to the Senator from South Carolina?

Mr. BACON. Mr. President, I could not do otherwise.

The VICE-PRESIDENT. The Senator from South Carolina.

Mr. TILLMAN. The Senator is charging me with things that I never said because I have never thought of them. I am not accusing him of——

Mr. BACON. The Senator says I was accusing him of things that he has not been guilty of. I want to know if the Senator refers to the fact that I said that he had been saying soft and gentle things?

Mr. TILLMAN. No; I was never accused of saying many soft and gentle things in this body. I have been accused, and I suppose I have been guilty very frequently, of saying harsh and ungentle things, and sometimes unparliamentary things; but I at least always try to bring myself within the rule that ought to govern, and not criticise men unjustly. Everything I have produced this morning in animadverting or criticising the judges, which I have brought out here, was worthy of the attention of the country at this particular juncture, when the Senator from Georgia and others like him have been appealing to us with almost tears in their eyes to take care of this sacred judiciary. If these judges——

Mr. BACON. Does the Senator interrupt me for the purpose of asking me a question? If so, I hope he will propound it.

Mr. TILLMAN. If the Senator dislikes what I said I will sit down.

Mr. BACON. Mr. President, I think the Senator asked the question——

Mr. TILLMAN. I will ask this question, if the Senator will permit me: Will he tell me whether he thinks Mr. Lincoln and, I think, Sumner, and Seward, probably, were entirely wrong and out of their jurisdiction and rights when they criticised the Dred Scott decision?

Mr. BACON. Mr. President, before I answer that question I am going to answer the previous question the Senator asked me when he rather plumed himself upon having woven a sort of labyrinth and maze. The question, the Senate will remember, that the Senator propounded to me was whether I thought it was improper for him to call the attention of the Senate to specific acts of impropriety on the part of judges. I think Senators will remember the fact that while the Senator proceeded much further than that, that was the original question which he asked me in that particular bunch of questions.

Mr. President, I do not go to the extent of saying that a judge should never be criticised in the Senate of the United States. There are occasions when questions will arise when that may be not only proper, but necessary. I think I can recall that I have myself, if such was an impropriety, been guilty of that impropriety. I want to say, however, before I proceed more definitely to answer, that the Senator misconstrues me when he assumes that I am in what I am saying intending to personally criticise him. I do deprecate, within a certain degree, and with the utmost deference to the Senator, the particular line that he has seen proper to indulge in in this criticism. It is not the fact, Mr. President, that a particular impropriety on the part of a judge has been alleged by the Senator, but it is the fact that the Senator has endeavored to cast—I will not use the word "endeavored," but the effect of what the Senator has done has presented the appearance of an effort to cast discredit upon all, speaking generally, of the Federal judges, with the exception of the judges of the Supreme Court, whom he specially excepted.

Mr. TILLMAN rose.

Mr. BACON. Pardon me one moment. I will yield to the Senator directly, but not now.

Mr. President, the Senator in so doing absolutely took the country geographically. I was called out during the delivery of his speech, and do not know whether he entirely covered the geography of the United States, but the Senator took the country geographically, and with this instance and with that instance and with the other instance certainly produced upon my mind the impression that the effort was to show that the judges of the United States courts were so accustomed to doing things which ought not to be done, were so in the habit of stepping outside of the domain of proper personal conduct, so in the habit of tyrannically using their power, so in the habit of using their power for the defeat of the ends of justice, that they were not to be trusted with the exercise of the injunctive process in the pending bill. If that was not the purpose of the Senator and if that was not the impression made upon everyone else who listened to him, then I was unfortunate in being singular. Mr. President, that, I think, in a general way is an answer to the general questions of the Senator.

As to the questions propounded with reference to Mr. Lincoln, Mr. Seward, and others discussing the Dred Scott case, in the first place, I might answer that by saying those were not matters uttered in the Senate or even in the House of Representatives, where they have the origination of such matters, but were matters uttered on the stump. In the second place, I will say that that related to a period which was the incipiency of a great revolution, and that men were not to be judged as they are now as to nice questions of propriety, which questions are questions which should never be forgotten in the Senate of the United States.

I have no desire to continue this discussion, Mr. President. I felt it due to myself, in view of the fact that in the colloquy with the Senator I had used certain adjectives in reference to judges, to state that those adjectives were intended to be in quotation marks, and were not original with myself.

But I want to pursue the thought which I had in mind at the time the honorable Senator interrupted me with the questions which have been propounded by him and by the suggestions which he has made. I said substantially that, whenever it came to the point that the judges of the United States were no longer to be entitled to be regarded as the conservative element of this Government, it made little difference thereafter whether the executive and legislative branches of the Government were conservative.

Mr. President, we must not forget one fact, that while the legislative branch of the Government—and when I say "legislative branch" I mean the legislative power, which is made up of the Congress and, in certain instances, of the Executive, in his approval—that while it is ultimate in its authority in the enactment of law, the courts of this country, unlike those of any other country, are absolutely authoritative and ultimate in the decision as to those laws, not simply as to their construction, but as to their validity. So far as I know—I do not profess to be accurately informed, but I think it is true—that condition of affairs does not exist in any other civilized country in the world where the judiciary is authorized to set aside as invalid, null, and void the laws enacted by the legislative branch of the government. Whenever it comes to the point that the judges who have this supreme and stupendous power are no longer to be trusted either for conservatism or for honesty, where is the protection of the Government, however conservative the executive and legislative branches may be?

Mr. President, another thought. There are great forces of unrest working in the whole civilized world, and they are forces which need proper direction. They may be correct forces, but they need proper direction. They are forces which threaten the fabric of civilized government; they are forces which are not entirely quiet in this country; and, Mr. President, I consider it to be the highest duty of this highest body to so act and so speak not only as to avoid stirring up the passions of the people and destroying their faith in their Government and in those who are called to administer it, but that it is better to go to the other extreme, if need be, and inspire even more confidence than their individual merits may entitle them to.

Let us, Mr. President, make our people believe that we have a good Government; make them believe that, while there may be here and there an unworthy man, the great body of those who are called upon to administer this Government are honest men and patriotic men—executive, legislative, and judicial. Let us do away, so far as we can, with this disposition to decry the officials of the Government and to produce in the minds of the masses of these people, and especially of the unthinking people, the extreme idea that those who are called upon to administer the Government are corrupt and unworthy of their confidence. [Applause in the galleries.]

The VICE-PRESIDENT. The Chair will remind the galleries that manifestations of approbation or disapprobation are forbidden by the rules of the Senate.

Mr. TELLER obtained the floor.

Mr. TILLMAN. Will the Senator from Colorado yield to me for a moment?

Mr. TELLER. I yield to the Senator from South Carolina.

Mr. TILLMAN. I want to call the attention of the Senate to the fact that in my discussion of the judges and in my citation of unfortunate occurrences and transactions, I especially declared that all of the judiciary were not under criticism or deserving of it, that many of them were as pure, as high, and as good as we had any right to expect.

The Senator from Georgia [Mr. BACON] goes very far when he undertakes to say that I am endeavoring to break down respect for the judiciary as a whole. I paid the highest compliment I could to the Supreme Court of the United States, because I believe that great tribunal is worthy of our admiration and confidence. There are many circuit judges and many district judges who are equally worthy. But are we in this bill, because of the existence of these pure and upright judges in some places—are we to turn over to the tender mercies of the

unworthy ones the unfortunate people who have to live under their jurisdiction? Take the case, for instance, where two circuit judges have been shown here to-day by indubitable evidence to be tyrannical and outrageous—Pardee and McCormick—and the district judge whom the Senator from Georgia said he voted to impeach—what are we going to do if we can not protect that section of the country and those other places where there is an unfortunate community with a corrupt or an indecent judge in power? When the Senate refuses to impeach, if we can not criticise, what is left to us?

Mr. TELLER. Mr. President, a bill which has recently passed the House of Representatives, and subsequently passed this body, and I am told has become a law, has been presented as changing the attitude or condition. It does not seem to me that it changes it in the slightest degree. It is intended, undoubtedly, to provide for an appeal from the issue of an interlocutory order. It provides:

> That where, upon a hearing in equity in a district or in a circuit court, or by a judge thereof in vacation, an injunction shall be granted or continued, or a receiver appointed by an interlocutory order or decree, in any cause an appeal may be taken from such interlocutory order or decree granting or continuing such injunction, or appointing such receiver, to the circuit court of appeals.

It provides also, and this is what I want particularly to call the attention of the Senate to:

> That the appeal must be taken within thirty days from entry of such order or decree, and it shall take precedence in the appellate court; and the proceedings in other respects in the court below shall not be stayed unless otherwise ordered by that court or by the appellate court or a judge thereof during the pendency of such appeal.

Mr. President, the judge of a court having made an order that the rate shall not take effect, the appeal must be taken, if at all, by the Commission, because the carrier who has brought suit, and who solicits this injunction, certainly does not want the appeal. He has got a stay of proceedings. So the Commission must take the appeal, if it is taken; but it is absolutely within the power of the judge to grant the interlocutory order and to say what the effect of that decree shall be. The judge having made an order that this rate shall not go into effect, will surely continue his order to the extent that it shall not go into effect during the appeal; or, if he does not, the appellate court may or some judge thereof may. There is nothing in this provision of the law which changes the situation in the slightest degree.

Mr. President, there has been something said about the character of the Federal judges. I am in favor of that provision of the amendment offered by the junior Senator from Texas [Mr. BAILEY], which provides that there shall be granted no interlocutory order suspending the operations of the Commission's rate until the final conclusion of the case. I do not put my advocacy of that proposition on the ground that I suspect the courts; but I put it on the ground that the Commission, having been intrusted with a public duty, and having performed it, is fairly to be assumed to have performed it well. Therefore its order should stand and be in full effect until such time as the court shall, upon final investigation and final determination, decide otherwise. That is exactly what the President of the United States asked Congress to do in his message of a year ago last December and, if I mistake not the intention of it, that is what he asked Congress to do in the last annual message he sent to us.

I have not any question about our power to prohibit the granting of an interlocutory decree. There have been a large number of cases cited showing that Congress has repeatedly exercised that power and that the courts have upheld Congress and declared that power to be legally and properly exercised; and there are a great number of cases which have never yet been presented to this body, that could be presented in support of that contention. Both upon principle and precedent we can stand firm in the conviction that the exercise of such power by Congress is not such an invasion of the carrier's right as would enable him to say that due process of law is not afforded him.

The Senator from South Carolina [Mr. TILLMAN] has given as a reason why he thinks such a provision should be incorporated in the bill his fear that some of the judges may act improperly. Whether that be true or not, it is certain that the railroad company, having brought its action, has it absolutely within its power, if it can get an interlocutory injunction upon an ex parte hearing, to practically suspend the operations of the proposed law and nullify it entirely.

It is possible, Mr. President, that the railways will not do it. It is possible that they may not find a judge who will grant an interlocutory order. However, during fifty years acquaintance with the courts I have seen several hundred interlocutory orders issued in absolute violation of every principle of justice, issued without a hearing, issued upon ex parte affidavits, issued sometimes in chambers and sometimes in court.

That such things have been is a certain indication that such things will be. If there are in the United States a few judges who are incompetent and ought not to be on the bench, either because of their ignorance or their dishonesty, in my judgment it becomes our duty, in dealing with the subject in hand, to provide that they shall not have the opportunity of suspending the operations of this law. If there are such judges in the country, the litigant who wants an unfair advantage knows where they are and how to reach them.

Mr. President, my education and my life business have brought me in contact with the courts. I am a member of the bar and I am, by the theory of my profession, an officer of the court, and yet I know, not only from history, but I know from observation, that there are incompetent judges—nay, more, I know that in every hour of our history and every hour of the history of every other country where a system such as ours prevails, injustice has been done by men sitting on the bench, who have exercised the power that was given to them for the benefit of all simply for the benefit of a few. In my own State, when we were under a Territorial form of government, I have seen a judge appointed by the authority of the United States perform acts of such great injustice to the people there that they rose up practically in arms, and the unfaithful judge escaped out of the Territory and never returned.

The history of the world will sustain me in saying that the most disgraceful acts of tyranny that ever have been perpetrated have been perpetrated by judges, creatures of the king, under the color of law; and yet I do not sympathize with any general attack upon the courts. I know that courts are not infallible. I know that no system of selection, whether by appointment or by election, can always give either competent or honest or upright men for the bench. I agree somewhat with the Senator from Georgia [Mr. BACON] when he says that confidence in the judiciary is the sheet anchor of our very existence as a nation; but I reserve for myself the right here and everywhere, whenever a judge transcends the law or whenever, in his ignorance, he fails to observe it, the right to criticise him. There is no place so sacred but that an American citizen has a right to complain of injustice, whether it be perpetrated by a judge, by a member of this body, by the Executive, or by any organization whatever.

I want to say for the Federal judiciary—and I have been acquainted with it, as I have said, for fifty years—that when you find an unfaithful judge he is an exception, a wonderful exception. There has been nowhere in the history of the world a judiciary in whom the people of right could have greater confidence than the judiciary of the United States. If you will search the history of English courts—and you need not go back twelve hundred years, you need go back only one hundred and fifty years—you will find that a condition existed then in England that never has existed in American courts, and never could have existed, for the people would not have tolerated it. If there are here and there exceptions, where judges are either too ignorant to discharge their duties, or too corrupt to do so, the great mass of Federal judges have been not only learned in the law, but they have been honest and upright in the administration of the law.

Mr. President, I repeat that judges are not infallible. Take the decisions of the best Federal and State courts and you will find to-day that they have held the law to be one thing and to-morrow they have held it to be another. That does not mean corruption; that may not mean ignorance, because different men see the law in different lights. We have had an exhibition of that here. The best lawyers of this body have failed to agree as to what the law is. Is it strange, then, that men on the bench also should fail to agree? If the decisions of every court in this country were unanimous and one way we would soon believe that they were not the judgment of all but that there was some method of compelling an agreement.

It is unfortunate when, in the decision of a great question by the Supreme Court of the United States, five judges say the law is one way and four judges say it is another and different way; but you can not devise any system of judicature that will escape that if you have honest, upright men.

We disagree here in the Senate, Mr. President, and we ought to disagree if our judgment is not in accord with that of our fellows, but in this case I believe it to be our duty to protect the great shipping public, if we can, to the extent that they may have the full benefit of this bill when it shall have become a law.

Mr. President, I did not intend to make any remarks upon this bill at all. I have firmly satisfied myself what the character of this bill ought to be. I am prepared to vote on it. I am in favor of the bill as it came from the House of Representatives with a proper modification, which I find satisfactory in the amendment offered by the junior Senator from Texas who sits

by my side [Mr. BAILEY]. I believe that amendment will give to the carrier an opportunity to question everything that the Commission shall do which he may think interferes with his rights.

Mr. President, for one I should be ashamed to vote for a bill in which I did not have confidence enough to submit it to the final adjudication and determination of that great body to which has been transferred, not only questions of this kind, but the great question of our power to enact laws. When a court has been authorized to determine every grave question that we have presented to us, to determine whether the laws we enact are within our power, whether they come within the constitutional provisions, can we not trust that court with a question of dollars and cents? Dollars and cents are not comparable, after all, with the great questions of personal liberty and personal rights; and every man in this country holds those rights subject to the decision that court may make. I repeat, if you can trust the court in such matters, you can trust them with the questions involved in the pending bill.

I know that this bill will have to stand the criticism of the courts. I believe that every feature of it can be sustained, including the question of what some say is an interference with the functions of the courts by prohibiting an interlocutory injunction; but if the courts should say, in spite of the prohibition on the issuance of the writ of injunction, "We will grant the injunction," the remainder of the bill, in my judgment, will not be affected by that.

I believe that this bill might be benefited by amendments. I believe I can pick out half a dozen Senators here who can sit down and modify the bill to great advantage. I know that will not be done. I know the public expect that this bill will pass the Senate practically as it passed the House. Practically it will, in my judgment. I am in favor of making it certain that every carrier and every shipper shall have his day in court. I will trust the Federal court with that question. I believe it will see to it, as it ought to see to it, that every just and honest complaint can be redressed, if at all, at its hands.

Mr. BAILEY obtained the floor.

FOREIGN OFFERS OF AID TO CALIFORNIA SUFFERERS.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States, which was read:

To the Senate and House of Representatives:

Immediately after the disaster at San Francisco many offers of assistance in the shape of contributions were tendered by foreign individuals, corporations, governments, and municipalities. The Canadian government, with an instant generosity peculiarly pleasant as a proof of the close and friendly ties which knit us to our neighbors of the North, offered to pass a resolution appropriating $100,000 for the relief of the sufferers by earthquake and fire. With a generosity equally marked and equally appreciated the Republic of Mexico, our nearest neighbor to the south, voted to appropriate $30,000, and the Republic of Guatemala voted to appropriate $10,000 for the same purpose. The Empress of China, in addition to sending money to be used for the Chinese who suffered in San Francisco, offered to send more than double as much to be used for the inhabitants generally. The Japanese Government immediately offered to send across the ocean one of their beautifully equipped hospital ships to be used in any way for the sufferers, and also offered 200,000 yen to the relief committee, in addition to more than 100,000 yen sent to Japanese subjects. The Government of far-distant New Zealand voted $25,000. The government of Martinique voted 1,000 francs. The municipality of Edmonton, Canada, $1,000. Many municipalities, corporations, and individuals in England, Germany, France, Japan, Cuba, and other countries immediately proffered aid. Where these offers of aid are made to the private relief committees organized to deal with the distress in San Francisco I have, of course, no official action to take concerning them. Where they were tendered to me in my official capacity I did not feel warranted in accepting them, but I am certain I give utterance to the feelings of all our countrymen when I express my very lively appreciation of the warm-hearted generosity and eagerness to help us in the time of our affliction shown by the governments, the municipalities, the corporations, and the individuals mentioned above. We are deeply grateful to them, and we are deeply grateful for the way in which they showed in such practical fashion the growth of the spirit of brotherhood among the nations.

Most kind and welcome messages of sympathy also were promptly sent to us by the Emperor of Austria, the King of Belgium, the President of Bolivia, the Prince of Bulgaria, the President of Brazil, the President of Chile, the President of Cuba, the King of Denmark, the President of the Dominican Republic, the Khedive of Egypt, the President of France, the German Emperor, the King of Great Britain, the King of Greece, the President of Guatemala, the King of Italy, the Emperor of Japan, the Emperor of Korea, the President of Mexico, the Prince of Monaco, the Queen of the Netherlands, the President of Nicaragua, the King of Norway, the President of Peru, the King of Portugal, the Czar of Russia, the King of Servia, the King of Spain, the President of the Swiss Confederation, the King of Sweden, the Sultan of Turkey, the President of Venezuela, the governments of Austria-Hungary, Bavaria, Belgium, Brazil, Chile, Costa Rica, Colombia, Cuba, Denmark, Ecuador, France, Great Britain, Guatemala, Greece, Haiti, Italy, Japan, Panama, Persia, Portugal, Paraguay, Peru, the Netherlands, Norway, Switzerland, Spain, Uruguay, Sweden, Russia, and Siam; by the ministers of foreign affairs of Chile, Greece, Nicaragua, Portugal, Paraguay, Guatemala, and Russia; by the Viceroy of India and the Governor-General of Australia; by the governors of Ontario, Hongkong, Ceylon, the Bermudas, Natal, the Azores, the Iwate Prefecture of Japan; by the premiers of New South Wales, Victoria, South Australia, and New Zealand; by the National Assembly of Salvador; by the Cuban House of Representatives; by the National Assembly of Guatemala; by the mayor, senate, and house of Bremen; the mayor, president, and the senate of Hamburg; the mayors of Adelaide, Queensland, Hobart, Madrid, Osaka; by the chambers of commerce of Nagoya, Japan, and Calcutta, Bengal; by the Tea Traders and the Silk Fabric Guild of Yokohama and the Asahi Shimbun of Osaka; by the Canadian Manufacturer's Association of Toronto and the Latin Union of Habana; by the prime minister of England; the lord mayors of London, Liverpool, Bristol, Leicester, and Shrewsbury; by workingmen's councils, religious associations, and by a multitude of other associations, organizations, and private individuals.

Appropriate expressions of gratitude to all these friends have been returned by the State Department or by myself, but it seems to me that the real depth of grateful feeling awakened in our people by all these evidences of genuine sympathy and friendship should be expressed also by formal action of the supreme legislative power of the nation.

I recommend the passage by the Congress of an appropriate resolution to that end.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *May 3, 1906.*

Mr. PERKINS. Mr. President, I suggest that the President's message be referred to the Committee on Foreign Relations, and that that committee be requested to formulate appropriate resolutions, conveying to the foreign governments and commercial and other bodies named in the President's message the grateful acknowledgment and appreciation of the people of our whole country, but especially of California, of their heartfelt sympathy for and kind offers of financial assistance to the afflicted people of San Francisco, who have suffered so much by the great calamity that has recently fallen upon that city.

The VICE-PRESIDENT. Without objection, the message will be printed and referred to the Committee on Foreign Relations, as requested.

Mr. NEWLANDS. I wish to say a few words regarding the message.

The VICE-PRESIDENT. The Senator from Texas has the floor. Does the Senator from Texas yield to the Senator from Nevada?

Mr. BAILEY. I wish to occupy but a few moments, and then the Senator from Nevada can proceed.

The VICE-PRESIDENT. The Senator from Texas declines to yield.

REGULATION OF RAILROAD RATES.

The Senate, as in the Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. BAILEY. Mr. President, the Senator from South Carolina [Mr. TILLMAN] does not need my assistance or the assistance of any of his political friends on this side of the Chamber in defending himself or his position against a misconstruction. But the evident satisfaction with which the rebuke to him was received by our friends on the other side of the Chamber leads me to fear that if it were left to pass unchallenged the country might assume that the only argument of those who support the proposition to prohibit preliminary injunctions against the orders of the Commission is based upon our suspicion against both the integrity and the intelligence of all Federal judges.

Speaking for myself—and I have no right to speak for anyone else—I have declared on a former occasion, and I now declare, that I hold an overwhelming majority of all the men who sit to construe the laws of Congress in the highest esteem. I believe in their intelligence; I believe in their integrity; I believe in their patriotism. But, sir, I am not so blind as not myself to see that there are unworthy men amongst them, nor am I so shortsighted as to think that, strive as I might, I could ever make the people of the United States forget the unworthy men who wear the judicial ermine of this Republic.

I do not mean that all of those against whose improvident issuance of a preliminary injunction I would guard would issue it under improper motives. When I look to the cases which have been decided, I find that in almost every instance when the railroads have appealed to the Federal judiciary against the railroad rates established by State commissions a preliminary injunction has been promptly granted. I do not say, indeed I do not believe, that these judges were dishonest. If I did believe it, I would say it, because, with all my respect for the courts, I have no reverence for them. I revere no living men except those who consecrate their lives to the unselfish service of God. They are the only people in this country for whom I cherish a reverence. For all the others I have only a respect. For the faithful and useful public servant I have a profound respect, but I have no awe of them or reverence for them. I am not one of those who believe that when we stand in the presence of a court we ought to take off our hat and shoes, as if it were holy ground. It is enough to stand with uncovered head, and standing thus we have the right to stand erect as

men made in the image of our Maker, without being required to fawn upon and cringe to a fellow-man simply because he happens to be a judge. If I believed these men were dishonest, I would say so here; I would say so in their courts if the occasion rose; but I do not believe that every time an injunction has been improperly issued it was dishonestly done.

In the case from my own State the Federal judge enjoined not only the schedule of rates which the commission had fixed—and that part of his decree was affirmed by the Supreme Court of the United States, the State introducing no testimony on that point or after having introduced some afterwards withdrew it and amended the plea—but he went further.

He enjoined the enforcement of any provision of that law, upon the ground that it was contrary to the Constitution of the United States. And yet when it was brought to the highest court in all this land that court unanimously reversed that part of his decree.

In the Kentucky case the Federal court in that State was so anxious to enjoin the Commission that actually the Supreme Court reversed their decree because it enjoined them too soon. So it is that in case after case these Federal judges have either issued injunctions dishonestly or unwisely; in most cases, I think, unwisely; in some cases, I think, dishonestly. So long as I know there sits on a Federal bench one man for whose conviction on impeachment I have voted, I will never agree to allow that judge—and if we allow it to all the others we must likewise allow it to him—the right to suspend, without due and full inquiry, a well-considered decision of a Government tribunal.

Not only did a large number of Senators in this body vote to convict the judge whom I now have in my mind, but I saw his attorneys stand at the bar of the Senate and object to the introduction of a part of his sworn statement made before the Judiciary Committee of the House. To my mind, a man who is fit to be a judge is not afraid to be confronted anywhere with his own words, made under oath or otherwise. We can not forget that that man still sits as a judge, and that he has the power to deny to the people whose misfortune it is to suffer under his administration the benefits which a wise enactment of this Congress might confer.

Mr. President, I am not willing to see the Democratic party, I am not willing to see even the single Democratic Senator to whose management and care the bill has been committed, arraigned before the country and charged with seeking to deny the preliminary injunction because we distrust the judiciary of this Republic. But, Mr. President, confiding, as I do, in the uprightness of our judges, I do not think the judge is any more essential to the security and the permanence of this Republic or to the welfare and happiness of these people than is a patriotic Congress or a wise and firm Executive. It is just as necessary to have a Congress which will make just and equal laws as it is to have a judiciary which will construe them correctly after we have made them.

I confess that I have not yet learned in what respect an upright, brave, and honest judge is better than a Senator who is equally brave, upright, and honest, and an Executive who fearlessly and impartially executes the law as Congress has made it and as the courts have construed it deserves as well of his countrymen as either. The safety of this Government depends on all and not on any one of its departments.

It is all well enough to cultivate a respect for the courts, but it is not more important than it is to cultivate a respect for the Congress and for the executive department.

Mr. President, if a Senator disgraces himself nobody thinks it is out of place to say so. It is true that some who write for a penny a line assail upright Senators because some are not upright; but in time that produces no mischief. The Senate and every Senator will at last be judged by what it or he does and says, and not by what others say about it or him. It is with the judge precisely as it is with a Senator. By his judgments the public are warranted in judging him, and if a judge, from his high place, shall misconstrue the law, shall trample upon the right, and defeat the ends of justice, he ought to be pilloried in full view of the American people, and every man can be taught to despise him without despising his great office. If I say that an unworthy Senator should be turned from that door with a brand on him, am I bringing the Senate into disrepute? Aye, sir, when I denounce the unworthy Senator I pay public tribute to the worthy ones. The fact that a Senator, forfeiting his right to the respect of his associates, is turned out, is itself a guaranty to the American people that honesty and correct behavior are still the rule in this great body, and that only those enjoy its respect who meet the requirements of that rule.

Let us have it so with respect to judges. If a judge borrows the private and palatial car of a railroad president, and from its luxurious appointments issues an injunction, shall I be forbidden, because I happen to be a Senator, to denounce it? No, Mr. President, the rule, the safe and the only rule, in this free land of ours is that whoever does a wrong and wherever he does it shall be denounced for the doing of it from every place where men are gathered, and from no forum should the denunciation come swifter and more pronounced than from this one, sir.

The great judge, the man of clean and open life—I walk by his side and I feel honored in his friendship. There is not in all the history of the world a nobler example of conscience and of courage than that set by the great English judge who when his King wanted him to decide a case in a certain way, sent this defiant message to his sovereign: "Tell your master that I will decide this case according to the very truth and justice of it." Such men have made our race the foremost in the civilization of all ages and of all countries. From him to this day no man in all our public life finds readier tribute from the people than the brave, the honest, and the upright judge, and no man respects him more than I do. But from every place I would denounce the man who soils the ermine, for it is my belief that a judge's robe should be as unsullied as a woman's name. Every judge who does injustice should be upbraided for it.

He should be driven from his great office and denied the respect of honest men, and in saying that I do not feel that I assail the foundations of this Republic.

Mr. President, I have heard men declare that whatever may be the imperfections of this law, the Supreme Court will not dare, out of a fear of public sentiment, to hold it void. The friends of this legislation ought not to lay that flattering unction to their souls. We must not suppose that if we lack the skill or the willingness to make a law free from constitutional defects and vices, it will safely pass the scrutiny of that great tribunal. I record it here as my deliberate opinion that they will hold it void unless we make it valid. I do not say that this bill is invalid in its present form, but I do say that we could free it from grave objections by some amendments which it would be easy to draw.

But that was not the purpose for which I rose. I simply rose to protest against an apparent effort to put the Democratic party in the attitude of wanting to abridge the power of these judges because we distrust the honesty of all courts.

Mr. FORAKER obtained the floor.

Mr. BACON. Will the Senator pardon me just a moment?

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Georgia?

Mr. BACON. I will occupy but a minute.

Mr. FORAKER. I yield to the Senator.

Mr. BACON. So that it may go into the RECORD as a part of this debate, I desire now to read the amendment which I shall propose and of which I have already given notice, in order to guard against hasty or inconsiderate or even corrupt action on the part of any judge, if such a thing can be contemplated as possible. It also protects the public against loss from the time of filing the bill, and insures speedy action so far as the carrier can effect it. I read it:

No rate or charge, regulation or practice, prescribed by the Commission shall be restrained, set aside, suspended, or modified by any interlocutory or preliminary order or decree of the court unless upon the hearing, after such full notice to the Commission as herein prescribed, the same shall be considered and concurred in and ordered by at least two judges presiding in said hearing, at least one of whom shall be a judge of the circuit court of the United States or a circuit justice of the Supreme Court of the United States. In case any application, motion, or prayer for such interlocutory or preliminary order or decree shall be made by any party to such complaint, other than the carrier or carriers to be affected by the rate or charge, practice or regulation, in question prescribed by the Commission, then and in that case, said carrier or carriers shall, before the hearing of said application, motion, or prayer, by appropriate order and process, be made a party or parties to the said complaint in equity to abide such orders and decrees as may be made by the court pending said cause and the final judgment and decree in the same. Upon the granting of any interlocutory or preliminary order or decree restraining, setting aside, suspending, or modifying any rate or charge, regulation, or practice prescribed by the Commission, before said interlocutory or preliminary order or decree shall be operative or of any effect, the carrier, person, or corporation seeking such order or decree, shall deposit in the registry of the court and subject to the order thereof as hereinafter specified, such amount as the court may determine, either in lawful money of the United States or in lawful bonds of the United States at the par value thereof. It shall, in addition thereto, be the duty of the said carrier or carriers to be affected by the rate or charge, practice, or regulation in question, to pay into the registry of the court, subject to its order, the sums of money as herein specified, and to effectuate the same, at the time of granting such preliminary or interlocutory order or decree, the court shall by appropriate order require the said carrier or carriers affected by the rate or charge, practice, or regulation in question prescribed by the Commission, to pay into the registry of the court and subject to its order, on or before the 10th day of each month pending the said interlocutory or preliminary order or decree, in lawful money of the United States, all money received by such carrier or carriers during the calendar month next preceding said date

and subsequent to the date of filing said complaint from the collection made for all shipments upon the rates and charges in question in excess of the rates and charges as fixed and determined by the order of said Commission. On the said 10th day of each month there shall be filed in court by said carrier or carriers, through their duly authorized officer or officers, a statement under oath of the shipments on account of which said collections have been made, setting forth in detail the character and amounts of said shipments, the point of each shipment and of its destination, the names of the consignors and consignees, the amount collected from each for said shipment, and separately the excess collected as aforesaid, and the names of the persons from whom collected. The said court at the time of granting said temporary or interlocutory order or decree, and in its discretion thereafter from time to time, shall require the said carrier or carriers to give such bond and security as may be deemed sufficient to insure the filing of said reports and the payment of said amounts; and in addition thereto shall, by the orders and processes of a court of equity, enforce summarily the prompt payment of said amounts into the registry of the court, from which orders of the court there shall be no appeal. Any refusal or failure to comply with said orders and to pay into the court the said sum of money as herein provided shall constitute a contempt of the court. For the purpose of said orders the court shall be deemed to be always in session. From said orders or decrees for the payment into court of the said amounts no appeal shall lie.

If upon the final decree in said cause the rate or charge prescribed by the Commission shall be adjudged to be valid, the court shall, by proper orders and decrees out of the said deposit or the proceeds of the sale thereof and the additional payments made into the court by the said carrier or carriers, caused to be paid to each of the persons from whom collections have been made the several amounts paid by each of them to said carrier or carriers in excess of the said rate or charges prescribed by the Commission, with interest thereon from the date of each payment at the rate of 6 per cent per annum.

If upon the final decree in said cause the rate or charge prescribed by the Commission shall be adjudged to be invalid and the enforcement of the same shall be enjoined, the court shall, by proper orders and decrees, direct to be paid over to the said carrier or carriers the sum of money thus theretofore deposited and paid into the registry of the court, less such amounts for costs as the court, in its discretion, under the circumstances of any case, may in justice and equity deem to be reasonably chargeable to said carrier or carriers.

Pending said cause, it shall be within the power of the court, by appropriate proceedings, either in open court or through a master in chancery or commissioner, to examine into the correctness of the reports herein required to be made under oath by the said carrier or carriers, and to this end to examine, under oath, their officials and employees, and to require, by order, the production of the books and papers of said carrier or carriers.

If, upon the said examination, it shall be adjudged that the said carrier or carriers have not made complete returns of all of said shipments and the amounts collected thereon, as herein specified, the court shall, by order, require the said carrier or carriers to pay into the registry of the court, in lawful money of the United States, the amount received on account of said shipments in excess of the amounts theretofore reported to the court.

I will not say anything about the amendment now, because it will be more proper to do so when the amendment comes up for action. I desired that that much should be now mentioned and embraced as a part of this debate.

Mr. FORAKER. Mr. President, I do not rise to take issue with anything that has been said by the Senator from Texas [Mr. BAILEY] or by any other Senator as to the question of power on the part of Congress to prohibit the granting of temporary restraining orders by the courts, nor do I intend to discuss the question of the effect of providing for a court review of the orders that may be made by the Commission, if this bill becomes a law, or the effect of omitting to provide such court review; but I rise to call attention to the attitude heretofore sustained with respect to both these questions by the Interstate Commerce Commission. I do that feeling that there is greater propriety in it since the junior Senator from Wisconsin [Mr. LA FOLLETTE] addressed the Senate a few days ago and in terms of unmeasured praise told us of the experience of the Interstate Commerce Commissioners and their competency by reason of that experience to advise us as to the character of law that should be enacted.

I do it for another reason, Mr. President. Until within the last three or four months, according to my recollection, we never heard of a proposition from any source to confer upon the Interstate Commerce Commission power to make rates and to adopt and establish regulations governing the operations of the railroads of this country without making the exercise of that power subject to review by the courts. But suddenly, since the beginning of the present session of Congress, the proposition has been advanced and has been embodied in the Hepburn bill, which is now before the Senate, and in other bills that this great power should be conferred upon the Commission, and that it should be exercised without any review of it by the courts.

I call attention, in the first place, to the report of the Interstate Commerce Commission made in December, 1897, being the Eleventh Annual Report of the Interstate Commerce Commission. This is the first report that was made by the Commission after the decision in what is known as the "Maximum Rate case," in which case the court held that the Interstate Commerce Commission had no power to make rates under the original interstate-commerce act, which was under consideration in that case.

After having called attention to that case, and to the nature of the decision in that respect, and after having called attention to the fact that it was necessary, in the opinion of the Interstate Commerce Commission, for us to amend the law so as to give them this rate-making power, the Commission then took up for discussion what I now want to read, at page 34 of their report, under the subhead "To what extent should orders be subject to judicial review." The Commission said:

If this view should prevail, to what extent and in what manner ought the orders of the Commission be made the subject of judicial review? It is generally understood that under the Constitution of the United States an order for the payment of money can not be enforced without giving the defendant an opportunity for a trial by jury.

That general and common understanding continued until this particular bill was framed in the House and sent to the Senate as passed by the House. Continuing, the Interstate Commerce Commission said:

Such orders must therefore stand very much as they do at present. They are, however, a very insignificant part of the entire number and from their very nature will be such that ordinarily the carrier will comply with them without the necessity of any steps for their enforcement. The great bulk of our orders, as already stated, must pertain to the future. They will be orders fixing either a maximum or a minimum rate. The only power which courts can exercise over orders of this sort is to vacate them. They can not be invested with authority under the Federal Constitution to make and enforce a modified order.

For what reasons, then, should the court be allowed to vacate an order? The only appeal which lies from the decrees of the English railway commission is upon questions of law. There is no appeal upon questions of fact as to which the decision of the commission is final. This is analogous to the verdict of a jury or the findings of fact by a special master in chancery under the equity practice of some States.

Much might be said in favor of applying the same idea to the orders of this Commission. It can hardly be expected that ordinarily the case, upon proceedings in review, will come before a tribunal which is in theory better fitted to determine questions of fact than the one which passes upon them in the first instance.

Upon the other hand, the right of review is always a safeguard—

Now, I want the attention of Senators to this, because it is authority which surely at least the Senator having this bill in charge ought to give heed to:

Upon the other hand, the right of review is always a safeguard. It puts a certain restraint upon the judgments of any tribunal. It would not probably embarrass the practical operation of the law, and it might prevent the occasional miscarriage of justice if the whole case, both upon the law and the facts, were submitted to the court.

Mr. TILLMAN. Mr. President——

Mr. FORAKER (reading)—

The question of review would then be—

Now listen—

Is the order lawful, just, and reasonable? If so, the proceedings in review are dismissed. If not, the order is vacated. No new order can be made by the court. If the order is vacated, the case should be sent back to the Commission for further proceedings.

I ask the Senator to bear with me a minute until I read another paragraph.

Mr. TILLMAN. I was just trying to find what the Senator is reading from.

Mr. FORAKER. I am reading from the eleventh annual report of the Interstate Commerce Commission. I am reading the views of that Commission as to the propriety of conferring upon the court the power to review an order of the Commission making rates and establishing regulations, a power they were asking in that report to have conferred upon them by Congress.

Mr. TILLMAN. If the Senator will allow me, there can be no difference of opinion between us, I think, on that point. I have always said I am willing and anxious to get a review and to give both the shipper and the carrier an opportunity to have the court pass upon their rights.

Mr. FORAKER. That is true; but I want to call the Senator's attention to the extent to which the Commission recommend this review shall go. Now, further:

The right to apply for review should be exercised within a time limited or not at all. When application is made for review, the Commission should send to the court the testimony taken before it, which should constitute the record upon which the case is reviewed, unless the court is of the opinion that there is testimony which is material to a proper disposition of the case and which could not or under all circumstances ought not to have been given before the Commission. In that case the court should instruct the Commission to take and send up the additional testimony.

Now, one other paragraph as to whether or not the court should be authorized to grant temporary restraining orders pending this review:

The important question is, What effect should be given the order of the Commission pending the proceedings for review? If the carrier is obliged to obey an improper order, ordinarily it can obtain no redress. If the carrier is not obliged to obey a proper order, the public can ordinarily obtain no redress. When a question has been fairly and fully tried before the Commission, it appears to us that ordinarily the order of the Commission should be effective until the court has declared against it. There are manifestly, however, instances in which this ought not to be true. Probably the court should be invested with power, when application for review is made, to determine whether or not the order shall take effect pending such proceedings.

I might read further to the same effect, but I have read enough to show the views entertained by the Interstate Commerce Commission at that time. That was a time when they were giving exceptionally careful attention to the subject, and to what they said in regard to it, in their first official report after they had been, by the decision of the Supreme Court, stripped of that power which until then they had claimed to possess.

Now, in their reports from that time down to the present there has never appeared anything in conflict with what they said in their eleventh annual report. That they had not changed their views prior to November last—November, 1905—we have conclusive evidence in the form of a bill which at that time they sent to the Interstate Commerce Committee of the Senate for the consideration of that committee as a proper measure to recommend to the Senate for passage. After providing that they should be invested with power to make rates and regulations and put them into effect, they proceeded, at page 24 of the bill, as it was printed at the time, to say as follows:

Any carrier may, within thirty days from the service upon it of any order, other than an order for the payment of money, begin in the circuit court of the United States for the district in which its principal operating office is situated, proceedings to set aside and vacate such order; and in case such order affects two or more carriers, such proceedings may be brought by them jointly in the district in which the principal operating office of either of them is situated. Such proceedings shall be begun by filing on the equity side of the court a petition or bill in equity, which shall briefly state the matters embraced in such order and the particulars in which it is alleged to be unlawful, and in such proceedings the complainant and the Commission shall be made defendants.

Upon the filing of such a petition or bill the clerk of such circuit court shall forthwith mail a copy thereof to the Commission, with notice that the same has been filed; and the Commission shall thereupon, within twenty days from the receipt of such notice, cause to be filed in such court a complete certified copy of the record in the proceeding wherein the order complained of was made, including the pleadings, the testimony, and exhibits, the report and opinion of the Commission, and its order in the premises. If it is impracticable to send up a copy of any exhibit, the exhibit itself may be forwarded. The defendant may answer or demur to such petition or bill according to the usual practice in equity cases.

If upon hearing such petition the court shall be of opinion that the order of the Commission is not a lawful order, it shall set aside and vacate the same; otherwise it shall dismiss the petition. In either case the court shall file with its decision a statement of the reasons upon which the decision is based, a copy of which shall be certified forthwith to the Commission. If the order of the Commission is vacated, and if the defendant does not appeal to the Supreme Court of the United States, the Commission may reopen the case for further hearing and order, or it may make a new order without further hearing, not inconsistent with the decision and opinion of the circuit court. Any such subsequent order shall be subject to the same provisions as an original order.

Upon the filing of such a petition the circuit court may, upon such notice to the complainant and to the Commission as the court deems proper, extend the time within which such order shall take effect, not to exceed in all sixty days from the date of service of the order upon the carrier. The court may also, if it plainly appears that the order is unlawful, and not otherwise, suspend the operation of the order during the pendency of the proceeding or until the further order of the court.

Mr. NELSON. Will the Senator allow me? From what bill is he reading?

Mr. FORAKER. I am reading from the bill that was framed by the Interstate Commerce Commission and sent by that Commission to the Interstate Commerce Committee of the Senate as an embodiment of their ideas of what this legislation should be; and I am reading it to call attention to the fact that down until last November, at the beginning of the present session of Congress, the Interstate Commerce Commission continued to entertain precisely the views so elaborately and so ably expressed in their eleventh annual report in regard to the propriety of a full review by the court, including a review not only upon the evidence submitted to the Commission, but upon all other evidence that the courts might hold it was proper for them to hear in order that equity, justice, and right might prevail. I am reading it for the purpose of showing that they still continued down until last November to be of the opinion expressed by them in their eleventh annual report, that not only should there be this full, complete, broad view by the court, but that there should also be power conferred upon the court pending that review to restrain by interlocutory order the execution of the Commission's order until the court could finally determine its validity.

Now, Mr. President, not only was that the well-known view of the Interstate Commerce Commission, but it was the view of everybody else who discussed this subject, so far as I have any recollection or any knowledge. Not until after that time did we hear of anybody proposing a bill conferring this autocratic power upon the Interstate Commerce Commission such as the pending bill provides for without subjecting the orders it was to make to a review by the court. Suddenly there came a change. The Hepburn bill was introduced. It did not contain any such provision. A few other bills, I believe, about the same time were introduced that did not contain any such provision. Now, why was that change made?

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. FORAKER. Certainly.

Mr. DOLLIVER. My recollection of the review suggested by the bill sent to the Committee on Interstate Commerce by the Interstate Commerce Commission is that it submitted only one proposition to be considered by the court, and that is the lawfulness of the Commission's order. Am I correct about that?

Mr. FORAKER. That was the general proposition, but in determining whether or not it was lawful the courts were to have before them the complete record, including all the pleadings and all the testimony and all the exhibits and all the orders and all the steps taken.

Mr. DOLLIVER. If the Senator from Ohio will pardon the suggestion, he says that nobody ever suggested that the courts ought not to be clothed with authority to rehear and reconsider these findings. I call his attention to the fact that before the Interstate Commerce Committee, sitting as an investigating committee, there appeared three of the most famous and skillful railway lawyers in the United States—Mr. Morawetz, general solicitor of the Santa Fe; Robert Mather, now president of the Rock Island, and Mr. Hines, at that time, I think, connected in an official way, not in the office, however, of the general solicitor of the Louisville and Nashville Railroad.

I call the Senator's attention to the fact that these great students of railway law united in testifying before our committee that you can not, without violating the Constitution of the United States, give over to the courts any power to review the wisdom and discretion of the Interstate Commerce Commission, and upon that ground they based their protest that this power of making rates ought not to be conferred upon the Commission, because in the nature of our jurisprudence you can not, directly or indirectly, turn over the findings of the Commission to be reheard, reconsidered, and readjudicated by any court of justice.

Mr. FORAKER. Mr. President, the Senator wholly misapprehends what the witnesses named testified to before the Interstate Commerce Committee of the Senate. What they testified to in that connection was that we could not create an administrative board and have the character of hearing before it that we were contemplating and discussing at the time, and then when it made an order after such hearing, and as a result of it, take an appeal from that board to a court, because no court would entertain an appeal from an administrative authority. But they never said, neither did any other witnesses before that committee say, that we could not authorize an independent action complaining of an order that had been made and thus review it in an independent proceeding such as has been discussed, such as has been proposed by those who favor what we call a "court-review plan" in this debate here in the Senate. That is the distinction. They did unite in saying that. Nobody ever controverted that proposition; nobody ever insisted to the contrary.

But, Mr. President, suddenly there appeared one other idea that I am about to call attention to. What I was talking about particularly was the record made by the introduction of bills. I never heard of any bill omitting to provide for some kind of court review until some time after this bill of the Interstate Commerce Committee had been brought before our committee and had been considered there long enough to excite considerable discussion all over the country.

A little bit later a bill was introduced by the Senator from Iowa himself——

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. FORAKER. Certainly.

Mr. DOLLIVER. The bill to which the Senator from Ohio refers was introduced in the Senate.

Mr. FORAKER. I understand that. I say a little bit later it was introduced, but not until after the Senate convened. I believe the Senator omitted to provide for any court review in his bill.

Mr. DOLLIVER. I recognized the fact in the bill which I had the honor to introduce that it was not possible for Congress to take away from the courts their right to attack an order of the Commission on account of its being unlawful—that is to say, on the ground of its being a violation of constitutional right.

Mr. FORAKER. Whatever the reason may have been, I am

simply talking about the fact. I am not disposed to have any controversy with the Senator as to whether there is power in Congress to take away from the courts the right to review an order made by the Commission.

Mr. LONG. I was not present when the evidence to which the Senator refers was taken by the committee, but I have read that evidence, and if the Senator will refer to volume 2, page 801, of the hearings, he will find that Mr. Morawetz expressed the opinion that it was not within the power of Congress to confer upon the courts the performance of duties of an administrative or a quasi legislative character.

Mr. FORAKER. Mr. President, nobody takes issue with that statement. I have no doubt that Mr. Morawetz has so testified. I never heard of anybody testifying to the contrary. All are agreed that only judicial power can be conferred upon the courts, and Mr. Morawetz no doubt so testified.

The question raised by the Senator from Iowa [Mr. DOLLIVER] was whether or not the three witnesses named by him testified that it was not competent for Congress to confer upon the courts power to review the orders made by the Commission. My answer is that what they testified to was that it was not competent for us to authorize an appeal from an administrative board to the court direct, but they never pretended any such thing, nor did anybody else, so far as I have any recollection, as that you could not bring an independent action and that we could not give jurisdiction to the court to entertain an independent action to attack an order, or complain of an order and seek to have it enjoined, that the Commission had made and was seeking to enforce.

Mr. DOLLIVER. Mr. President, I have before me the testimony of the witness to whose testimony I alluded a moment ago, and I find that Mr. Morawetz said:

> Congress can require the courts to pass upon the question whether a rate fixed by a commission is confiscatory. It can also require the courts to determine whether a rate fixed by a commission or by a railway company is excessive—illegally high. But Congress can not require the courts to pass upon the mere business policy of fixing a rate anywhere between those two extremes.

I venture to say, without occupying too much of the Senator's time, that the other great railway lawyers to whom I have referred coincided in that opinion; and it is not a mere formal compliment to the honorable Senator from Ohio to say that his own speech, made here early in the session, seems to coincide with this view.

Mr. FORAKER. Mr. President, the Senator is mistaken about that. What the Senator reads raises a different question altogether from what I supposed he was raising by the interruption that he subjected me to a few minutes ago. In the speech I made here February 28 I pointed out, in agreement with what was said by these witnesses, that it was true that where rates on the one hand were confiscatory and on the other were extortionate, anywhere between that, rates may be considered, in a certain sense, to be reasonable.

Therefore, if fixed by legislative authority, they can not be reviewed by the court, unless we confer on the court express power to do so. That is what I contended for.

Now that I am on that point, I will say there is a difference of opinion betwen lawyers as to it, and I do not remember what this witness or that witness or another witness may have said on that particular phase of the subject; but I do remember, Mr. President, that no witness testified that we could not confer upon the courts jurisdiction to entertain an independent bill to review and set aside an order the Commission had made of which the carrier wanted to make complaint or of which the shipper or the community desired to make complaint on the ground that the order was not in conformity with the standard we create.

Mr. LONG. So far as I know, no one contends that we could not confer such jurisdiction on the courts. I believe that the courts have such authority now, without any special statutory provision.

Referring to Mr. Hines's statement before the committee, which, the Senator says, was only upon the question as to whether an appeal could be taken from the Commission to a court, I wish to call his attention to this statement of Mr. Hines in the hearings:

> If you get an order from a commission making a rate, no matter how you word the power of the judicial review—

Not the appeal—I call the attention of the Senator to this—but the judicial review—

> the court is not going into those facts any further than is necessary to protect the carrier from confiscation, in my judgment. So, no matter how much right you might have theoretically to do that, the matter is going to be left practically with the Commission, unless it palpably abuses its discretion.

Mr. FORAKER. Mr. President, as I have already said upon that phase of the general question, there was and is a difference of opinion among the lawyers, and I would not pretend to say what this lawyer said or that lawyer said who appeared and testified before the committee. I happen to know that some of the lawyers, and among them Mr. Hines, I think, have changed their opinion upon some of the points they discussed since they testified before the committee. That is only natural. Men are called before committees; they are cross-examined, questions are brought suddenly before them, which perhaps they have not carefully considered, and they make the best answers they can under the circumstances. It is not strange that now and then a lawyer who appears before a Senate committee should make statements there which, upon reflection and further investigation, he might wish to modify or change.

But, however that matter may be, Mr. President, I do not want to be diverted from the point I want to make. Down to the time I mentioned, nobody ever thought of such a thing as not providing in any bill presented to the Senate or to any committee of the Senate for a court review and full authority for the court to suspend by interlocutory injunction an order of the Commission pending the hearing of that review. I mean a review in an independent action. Suddenly, however, there came the bill of the Senator from Iowa, and I think that was the first one, that omitted the broad court review. I am not certain about that; but, if I am in error, the Senator is present and he can correct me.

Mr. DOLLIVER. If the Senator will permit me, I will say that there is no sense in which that bill omitted the court review. It provided that the orders should continue in effect unless they were vacated by the court. It provided a venue in the circuit court of the United States for the hearing of these independent proceedings in equity; and, while doubt has been thrown around the legal sufficiency of these provisions, I have never maintained, and no other friend of the bill has ever maintained, that there is absent from that bill, or from the House bill, an adequate facility for entering into the court to have determined any right which the carrier affected by the order has a right to have adjudicated.

Mr. FORAKER. Well, Mr. President, I will not have any controversy with the Senator about that concerning which we are talking. In the Senator's bill as it was originally introduced, if my recollection serves me correctly, it was provided in the restrictive review, if I may employ that term in a sense which is a correct one, that the question to be passed upon by the court was as to the lawfulness of the order made; but in this bill which we have under consideration, and in this bill for the first time, appears the provision that the question to be reviewed by the court is whether the order was regularly made—not lawfully made, but regularly made.

Mr. DOLLIVER. I dislike very much to interrupt the Senator's discourse, but the matters to which he has just referred have absolutely nothing to do with the independent action of the carrier going into courts for the purpose of denouncing an order of the Commission as unlawful or unconstitutional. The Senator is referring to the Hepburn section which authorizes the action on the part of the Commission to bring suit in equity to enforce its order.

Mr. FORAKER. If the Senator be right about that, Mr. President, then he has conclusively established what I was contending for, that there was omitted from his bill what was in the Interstate Commerce Commission's bill, which is the provision that the carrier, or anybody else interested, may go into court in an independent action as a complainant and have a review. There is no such thing as that in the Senator's bill; there is no such thing as that in this Hepburn bill, and until this Hepburn bill came before the House of Representatives, it never was in any bill—I mean the omission of a review of that kind—so far as I have any recollection.

Mr. DOLLIVER. Mr. President, one of my main troubles has been, as the Senator from Ohio knows, to get anybody to read my bill or the House bill.

If there is no provision made in the Hepburn bill for a review in the courts, what does the bill mean when it says that the orders of the Commission shall remain in effect unless the court suspends or vacates them? What does it mean when it deliberately provides for a venue and trial of suits brought by the carriers affected by those orders? That is a favorite method of conferring jurisdiction—to provide a venue.

Mr. FORAKER. Mr. President, the Senator does not misunderstand what I am talking about. I am talking about the fact that there is not in this bill any conferring of power upon any court to entertain any such independent review proceedings as I have been discussing. There is no such provision in the Senator's bill as is found in the Interstate Commerce Commission bill. That was left out. Why was it left out? The Senator knows why it was left out.

Mr. DOLLIVER. I know, and I think I ought to be permitted to state.

Mr. FORAKER. I should be glad to have the Senator do so.

Mr. DOLLIVER. It was left out for the reason that it was surplusage. The jurisdiction of the courts of the United States to attack the legal validity of an act of Congress does not depend upon any affirmative conferring of power in the act, but the jurisdiction of the court is independent of our action here. The provision was left out because it was obvious that that judisdiction could not be disturbed by an act of Congress. So far as I am personally concerned, I left it out because I wanted to preserve unimpaired the power which from time immemorial the courts have exercised in dealing with acts of Congress.

Mr. FORAKER. Mr. President, the Senator does not quite come to the real reason why it was left out. I will state the real reason, and the Senator knows when I state it that I am stating the exact truth. Although I was not at any of these conferences, I know what was done at some of them upon as good authority as I would have if the Senator himself should tell me. It was left out because it was pointed out when the Interstate Commerce Commissioners' bill was presented to the Interstate Commerce Committee, that by that bill, as by every other of the fifty bills, perhaps, that had been up to that time introduced, there would have to be, if it should be enacted into law, two trials to which the shipper would have to be subjected. He would have to have a trial before the Commission, and then he would have to go into court and have another trial.

Nobody ever before questioned but that that would be the right of the carrier or the right of the shipper or the right of the community, and everybody felt that to subject a shipper to two trials was wrong if there was any way to avoid it—to a trial before the Commission and a trial before the court—and that we should have only one, and it should be a full and fair trial and a final trial, except subject to appeal. But nobody up until that time ever thought of such a thing as shutting the court-house door against anybody. Everybody supposed, as a matter of course, that was a right inalienable, and there was no American citizen who could be deprived of it; and that, Mr. President, in all these proceedings, whether you commence them before a commission or not, they must sooner or later get into the court to have that hearing. So it was thought by some of us on the committee, who were just as anxious as the Senator from Iowa was, and as others of his colleagues are, to find a remedy for the evils complained of, that the duty was incumbent upon us to find a remedy that would not subject the shipper to more than one such hearing, and that if he was to have one anyhow, and one must be had in the courts anyhow, it ought to be there in the first instance.

That is why I brought in the bill I introduced here, Senate bill 285, providing that the Commission should be restricted in its powers to those which properly belong to an executive board—to executive powers; that it should discharge only administrative duties, and that when it came to a determination of these rights, to the end that there might be only one hearing, it should be, in the first instance, in that tribunal to which it must go in any event. So it provided that the Commission instead of acting in the first place as a prosecutor, then as a judge, and then as a legislator, should act simply as an executive board should act, and discharge only executive duties; it should hear complaints, and if a complaint when heard was of such a character that it could by the exercise of its powers of conciliation bring the parties together, it should exercise its powers of conciliation; but if it found on trial that the carrier would not desist from that of which the shipper complained, then it should be the duty of this Commission, not to sit for a full and final hearing running through a period of time ranging anywhere from one year to two, three, or four years before it could reach the point of making an order, but that it should immediately, if it thought there was probable ground for the complaint, send it to the court, where by necessity it must go anyhow, and where, having been sent, it was the duty of the court to proceed immediately, the district attorney having filed a complaint in the name of the United States Government, and give a full and final hearing, subject to appeal to the Supreme Court.

That seems simple. It was such a saving of expense to the shipper and such an advantage to the shipper over every other plan presented; it was such an advantage to all concerned to have but one hearing instead of two and to have it in the court, where of necessity he must have one anyhow, that at once there was a different topic taken up for consideration, and that was whether or not they could so frame it as to prevent any review by the courts of the work of the Commission. Then it was, when that matter was thus pressed upon our friends, that they omitted for the first time from the bills they introduced a provision for this broad and generous, and properly generous, court review, which the Interstate Commerce Commissioners placed in their bill.

Mr. SPOONER. And providing for due process.

Mr. FORAKER. And providing for due process, as the Senator from Wisconsin well suggests.

Mr. President, it is getting late. I did not expect to detain the Senate so long, but I did want to call attention at this stage of the discussion to the fact that, so far as a court review is concerned and so far as a restraining order is concerned, the Interstate Commerce Commission has stood uniformly down until this very last utterance, which is its most formal utterance—the bill it framed and sent to us—for both court review and interlocutory restraining order when the court thought it wise and just that such an order should issue.

Mr. WARREN obtained the floor.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from South Carolina?

Mr. WARREN. I ask the Senator from South Carolina if he will consent to the laying aside temporarily of the pending order, so that I may ask the Senate to bear with me a few moments until we finish the Army appropriation bill? I think it will take no more than five or ten minutes.

Mr. TILLMAN. I shall be very happy to accommodate the Senator; but before doing so I want to submit a couple of amendments of my own to the pending bill, and also to ask the privilege to submit, as coming from the Interstate Commerce Commission, some additional amendments, with explanations, not relating to the features we have been debating, and in one sense quarreling about, but to the administrative features. The amendments are to prevent contradictions and other phases of inconsistencies, to which the attention of the Commission has been directed. I asked them in my letter to point out anything of that sort which their experience would suggest. I ask that the batch of amendments and the explanations, together with the report of the Interstate Commerce Commission on one of the cases mentioned herein, just as I send it to the desk, be printed in document form, and that each of the amendments be printed in order.

Mr. CULLOM. How many are there?

Mr. TILLMAN. I do not know, but I think there are a dozen or two.

Mr. KEAN. Then I understand the Senator from South Carolina is not for the House bill unamended?

Mr. TILLMAN. I am for a good bill, Mr. President, an effective bill, and a just bill.

Mr. KEAN. Then that means the Senator from South Carolina is not for the House bill.

Mr. TILLMAN. I am not for it as it came from the House. I never have been, and have said so four or five times, I think.

Mr. KEAN. I am glad to know it.

The VICE-PRESIDENT. Is there objection to the request of the Senator from South Carolina [Mr. TILLMAN]? The Chair hears none, and that order is made.

Mr. BACON. I beg to present an amendment to the pending rate bill, which I ask may be read and also printed. I desire it read because it is immediately preceding the time when we shall be called upon to act upon it, and I should like to have it in the RECORD, so that Senators may examine it.

Mr. WARREN. Will the Senator be satisfied to have it printed in the RECORD without reading?

Mr. BACON. Very well, I will ask to have it printed in the RECORD.

The VICE-PRESIDENT. Without objection the amendment intended to be proposed by the Senator from Georgia will be printed and lie on the table. It will also be printed in the RECORD.

The amendment referred to is as follows:

On page 11, line 5, after the word "prescribed," strike out all of said line down to and including the word "jurisdiction" at the end of line 9.

On page 14 strike out all of line 18 down to and including the word "effect" in line 2, page 15, and in lieu of the words stricken out on page 14 insert the following:

"That all orders of the Commission, except orders for the payment of money, shall take effect at the end of thirty days after notice thereof to the carriers directed to obey the same, and shall continue for such period of time, not exceeding two years, as shall be prescribed in the order of the Commission, unless sooner set aside by the Commission or suspended or set aside in a suit brought against the Commission in the circuit court of the United States sitting as a court of equity; and jurisdiction is hereby conferred on the circuit courts of the United States in any district where any carrier plaintiff has its principal office, to hear and determine in any such suit whether the order complained of was beyond the authority of the Commission conferred by this act or is in violation of the provisions of this act, or in violation of the rights of the carrier secured by the Constitution. And jurisdiction is further hereby conferred on the circuit courts of the United States, in any dis-

trict wherein the plaintiff or plaintiffs reside, to hear and determine in any such suit whether the order complained of is in violation of the provisions of this act, or whether the rate authorized by the Commission to be charged by the carrier is unjustly discriminatory, or unduly preferential or prejudicial to the shippers, or allows to the carrier more than just compensation for the services to be rendered."

Mr. TILLMAN. I now ask that the unfinished business may be temporarily laid aside.

The VICE-PRESIDENT. In the absence of objection, it is so ordered.

ARMY APPROPRIATION BILL.

Mr. WARREN. I now ask unanimous consent that the Senate proceed to the consideration of the Army appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14397) making appropriation for the support of the Army for the fiscal year ending June 30, 1907.

The VICE-PRESIDENT. The first amendment which was passed over will be stated.

The SECRETARY. On page 15, line 6, after the word "rank," the Committee on Military Affairs reported an amendment, to insert the following proviso:

Provided further, That officers who served creditably during the civil war and who now hold the rank of brigadier-general on the active list of the Army, having previously held that rank for two years or more, shall, when retired from active service, have the rank and retired pay of major-general.

Mr. WARREN. I understand that the Senator from New Jersey [Mr. KEAN], who asked that that amendment lie over, does not now object to it.

Mr. KEAN. That is correct. Let it be agreed to.

The VICE-PRESIDENT. The Senator from New Jersey withdraws his objection to the amendment. The question is on agreeing to the amendment.

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment which was passed over will be stated.

The SECRETARY. The next amendment passed over was that proposed by Mr. BULKELEY on page 17, line 19, after the word "deposits," to insert:

As may not be repaid on June 30, 1906, as shown by the books of the Paymaster-General's Office, said sum to be transferred in the Treasury Department from pay of the Army to the credit of the deposit fund created by section 1305 of the Revised Statutes, as herein amended.

That sections 1305 and 1308 of the Revised Statutes of the United States are hereby amended, to take effect July 1, 1906, and to read as follows:

"SEC. 1305. Any enlisted man of the Army may deposit his savings, in sums not less than $5, with any Army paymaster, who shall furnish him a deposit book, in which shall be entered the name of the paymaster and of the soldier, and the amount, date, and place of such deposit. The amount so deposited shall be accounted for in the same manner as other public funds, and shall be deposited in the Treasury of the United States and kept as a separate fund, known as 'Pay of the Army deposit fund,' repayment of which to the enlisted man on discharge from the service shall be made out of the fund created by said deposits, and shall not be subject to forfeiture by sentence of court-martial, but shall be forfeited by desertion, and shall not be permitted to be paid until final payment on discharge, or to the heirs or representatives of a deceased soldier, and that such deposits be exempt from liability for such soldier's debts: *Provided*, That the Government shall be liable for the amount deposited to the person so depositing the same.

"SEC. 1308. Clothing balances accumulating to the soldier's credit under section 1302 shall, when payable to him upon his discharge, be paid out of the appropriation for pay of the Army for the then current fiscal year."

Mr. WARREN. Mr. President, that amendment was laid over at the request of the Senator from Texas [Mr. CULBERSON], who informed me to-day, before leaving the Chamber, that he withdrew his objection, and was in favor of the amendment.

The VICE-PRESIDENT. The question is on the amendment submitted by the Senator from Connecticut [Mr. BULKELEY].

The amendment was agreed to.

Mr. WARREN. I desire to call attention, on page 36, to the amendment regarding Fort Sam Houston, Tex. I want to strike out one or two words from the amendment. There is tautology there which crept in during hurried consideration of this particular amendment yesterday. After the words "San Antonio, Tex.," I move to strike out the words "for use."

The amendment was agreed to.

The SECRETARY. The next passed-over amendment is one submitted by the Senator from Montana [Mr. CARTER], on page 84, after line 21, to insert the following:

The Secretary of War is authorized, in his discretion, to permit the Department of Agriculture to use, for the purpose of an experimental horse-breeding station, such portion of the Fort Keogh Military Reservation, in Montana, as may not, in his opinion, be required for military purposes.

Mr. WARREN. The committee have considered the amendment, and accept it.

The amendment was agreed to.

The SECRETARY. The next passed-over amendment is one proposed by the Senator from Montana [Mr. CARTER], on page 41, after line 18, to insert:

To erect a guardhouse at Fort Keogh, Mont., $11,000; to erect two double barracks at Fort Keogh, Mont., at $55,000 each, $110,000; in all, $121,000.

Mr. WARREN. I will ask the Senator from Montana if he will not withdraw that amendment? It properly belongs to another bill and ought not to be considered in connection with this bill.

Mr. CARTER. After conference with the chairman of the committee, the Senator from Wyoming, realizing that this amendment may with propriety be offered to the sundry civil appropriation bill, I withdraw it.

The VICE-PRESIDENT. The Senator from Montana withdraws the amendment.

The SECRETARY. The next passed-over amendment is one offered by the Senator from Virginia [Mr. MARTIN] to add at the end of the bill the following:

To be expended under the supervision and direction of the Secretary of War in the improvement of the national boulevard owned by the United States, between Princess Anne street and the gate to the national cemetery, at Fredericksburg, Va., the sum of $30,000.

Mr. WARREN. The committee have considered the amendment and will accept it.

The amendment was agreed to.

The SECRETARY. The next passed-over amendment is one proposed by the Senator from Minnesota [Mr. NELSON], to insert, on page 15, after line 11, the following:

That upon written application to the Secretary of War, and subject to the conditions and requirements hereinafter contained, the name of each surviving major-general and brigadier-general of volunteers in the United States Volunteer Army of the civil war, and each surviving field officer of a volunteer regiment therein, who was at any time appointed and commissioned by the President, by and with the advice and consent of the Senate, as brigadier-general or major-general of volunteers, by brevet, on account of services rendered in said Army, shall be entered on a roll, to be known as the volunteer retired list. Each person so entered shall have served as an officer or an enlisted man not less than two and a half years in said Volunteer Army between April 15, 1861, and July 15, 1865, at least one year of which service shall have been in the field with troops; he shall have been honorably discharged from said service and shall have reached the age of 70 years; he shall not belong to the Regular Army and shall not have been retired; said application to be accompanied with proof of the identity of the applicant, and both the application and proof to be under oath: *Provided*, That an officer who lost an arm, leg, or both eyes by wounds in battle, if otherwise qualified, shall be entitled to retirement without reference to the length of his services in said Volunteer Army.

That each applicant whose name shall be entered upon said list shall be entered as of the highest rank held by him while serving in said Volunteer Army, and when so entered on said list he shall be paid, out of any money in the Treasury not otherwise appropriated, one-half pay, according to his actual rank, which pay shall be the same as that now received by retired officers of like rank in the Regular Army, and shall be paid in like manner; such pay to begin on the date of filing his said application with the Secretary of War and to continue during his natural life.

That each person who shall receive pay under this act shall thereby relinquish all his right and claim to pension from the United States after the date of filing said application, and any payment of such pension made to him covering a period subsequent to the filing of his said application shall be deducted from the amount due him on the first payment or payments under this act; and pay allowed by this act shall not be subject or liable to any attachment, levy, lien, or detention under any process whatever; and persons whose names are placed upon said list shall not constitute any part of the United States Army.

Mr. KEAN. I thought the Senator from Wyoming made the point of order on the amendment.

Mr. WARREN. I made the point of order, but withheld it so that the Senator from Minnesota [Mr. NELSON] could address the Senate upon the amendment if he desired. I understand he does not so desire, and I make the point of order.

Mr. NELSON. Mr. President——

Mr. WARREN. Pardon me. I did not observe that the Senator was in the Chamber.

Mr. NELSON. Mr. President, while I am very much interested in the amendment, and should be very glad to see it adopted, I concede the fact that the point of order is well taken, and that being the case, I do not feel warranted in taking up the time of the Senate to discuss the merits of the measure. It would be love's labor lost.

Mr. FORAKER. Mr. President, I wish to say that I am sorry the point of order does lie against the amendment, because I think the men who would receive the benefit of the amendment are men worthy of grateful recognition at the hands of the Government in the declining years of their life.

I merely wish to say, further, to the Senator from Minnesota that I would gladly sustain and help him in every way I could if the situation were different.

Mr. NELSON. I will add just one word more, and will not take up the time of the Senate further. There is a bill before

the Committee on Military Affairs relating to the same matter. I sincerely trust that the committee will give it careful and favorable consideration. I think the old veterans are entitled to consideration. I trust the committee, although this amendment may go out on the point of order, will not regard the subject-matter as outlawed.

Mr. WARREN. Just a word, Mr. President. The subject is one that will have the friendly and sincere consideration of the committee. There is one feature of it I do not wish to go into to-night, and that is that the amendment includes only the higher grade of officers. A question comes up, in fact has been made by several with the committee, as to those who did not hold as high rank and who are equally deserving. However, the whole matter will be considered in due time by the committee, so I will not discuss it further now.

The VICE-PRESIDENT. Does the Chair understand the Senator from Minnesota to withdraw the amendment?

Mr. NELSON. Yes; I withdraw the amendment.

Mr. TELLER. I desire to submit an amendment to come in anywhere as an independent proposition.

The VICE-PRESIDENT. The Senator from Colorado submits an amendment, which will be stated.

The SECRETARY. It is proposed to add at the end of the bill the following:

That the President be, and he is hereby, authorized to include within the provisions of the act of April 23, 1904, providing for increased grade on the retired list to certain officers of the Army with civil-war records, and as of the date of said act such officers with such civil-war records below the grade of brigadier-general as have heretofore been retired by reason of disability contracted in the line of duty under the provisions of the act of October 1, 1890, and also such officers with civil-war records below the grade of brigadier-general as have heretofore been retired under the provisions of section 1243 of the Revised Statutes.

Mr. WARREN. Mr. President, I regret very much that this matter is yet before the Military Affairs Committee in such shape that the committee does not feel that the amendment ought to go on the pending bill. I am therefore compelled to make the point of order, but I will withhold it until the Senator from Colorado has had time to state the case.

Mr. TELLER. Mr. President, this is substantially an amendment offered at the last session of Congress, and it is to amend a bill passed at the former session of Congress. The Department construed it in a way so as to leave out some eighteen or twenty men who thought they were entitled to partake of the benefits of that act. At the last session of Congress, when I offered the amendment and made some few remarks on it, the acting chairman, the Senator from Vermont [Mr. PROCTOR], said:

Mr. President, I sympathize with the amendment, but I hope the Senator from Colorado will not press it to a vote. He knows very well that I have worked in harmony with him to get the most liberal law passed for the benefit of these retired officers.

The act we got at the last session involved a great deal of labor in construction. For that reason the nominations did not come to us until the present session. The officers were seven months behind, the Comptroller ruling that they could not be paid until they had been confirmed.

The Committee on Military Affairs, immediately after the session began, hurried the Department to send in the list, and used all possible haste to get them confirmed.

I think there are imperfections in the law. I think there are certain classes of officers, not great in number, who ought to be included. I earnestly worked when that bill was before Congress to insert in it the most liberal terms, but it did not include all that I think ought to be included, and I do not think the Senator's amendment does.

Early in the session I called on the Judge-Advocate-General for a construction of that act, and he has submitted a very extensive report, which I will admit I have not had time to read, as I saw it was impossible to act on it. I should think there are 20 or 30 pages, perhaps more. I am sure the committee at the next session will take up this matter and consider the views of the Judge-Advocate-General, and try, as far as in their power lies, to bring in a measure that will correct a few odd cases.

I suppose the amendment is amenable to a point of order. I desire to say, however, that in my judgment there would be no necessity for the adoption of the amendment if the Department would construe the existing law as it ought to be construed and as some of the best lawyers in this country declare it should be construed. If the Senate was in a condition where I could present this matter properly and have a vote on it without embarrassing the Senate, I would certainly insist upon it. I wish to say to the Senator that I am going to watch out, and whenever an opportunity is presented in the future I propose to endeavor, if possible, to secure for these few officers what I think they are certainly entitled to.

Mr. WARREN. Mr. President, there is merit in some of these cases, and they are being very carefully considered. A majority of the Committee on Military Affairs of the Senate as now constituted are new members, who were not members of that committee one year ago when the Senator from Colorado presented this matter—that is, seven new men have gone on to the committee at the present session. I can assure the Senator, without stating with exactness, what will be done next year; that the subject will surely be considered, and thoroughly, by the committee. One trouble is that Senators seem to differ as to the number that are entitled to the benefit of the proposed legislation and the number affected by the construction of the present law by the Department. We hope, however, by further inquiry at the Department, to find what its basis and opinion is, and to get further information as to individual cases, and we hope to be able eventually to prepare a measure that will please the Senator and others interested in the subject.

Mr. TELLER. I have no special interest in this matter. I happen to know a number of ex-soldiers who are cut out under the construction put upon the act by the Department. I do not believe the number can exceed eighteen or twenty, and that is the number the Senator from Vermont estimated last year. I do not believe it will exceed that number. But of course it does not make any particular difference how many there are. If it is an act of justice it ought to be done, even though it is a pretty late day to do it.

Mr. WARREN. I feel that I must make the point of order, Mr. President.

The VICE-PRESIDENT. The Chair sustains the point of order, as the proposed amendment is clearly against the rule.

Mr. WARREN. That completes the committee amendments and all others so far offered, Mr. President.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

HEARINGS BEFORE COMMITTEE ON INTERSTATE COMMERCE.

Mr. PENROSE. I move that the Senate adjourn.

Mr. KEAN. Will the Senator from Pennsylvania yield to me for a moment?

Mr. PENROSE. I yield to the Senator from New Jersey.

Mr. KEAN. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by myself on yesterday, to report it with amendments, and I ask for its present consideration.

The Senate proceeded to consider the resolution.

The amendments of the committee were, in line 5, after the word "committee," to insert "or its subcommittees;" in the same line, before the word "hearings," to strike out "the" and insert "such;" in the same line, before the word "printed," to strike out "and bills;" in line 6, before the word "and," to strike out "for the use of the committee" and insert "for its use;" and in line 7, after the word "paid," to strike out "out of" and insert "from;" so as to make the resolution read:

Resolved, That the Committee on Interstate Commerce be, and the same is hereby, authorized to employ a stenographer from time to time, as may be necessary, to report such hearings as may be had on bills or other matters pending before said committee or its subcommittees and to have such hearings printed for its use, and that such stenographer be paid from the contingent fund of the Senate.

The amendments were agreed to.

The resolution as amended was agreed to.

LANDS IN MINNEAPOLIS, MINN.

Mr. HEMENWAY. I am directed by the Committee on Military Affairs, to whom was referred the bill (H. R. 15435) to empower the Secretary of War to convey to the city of Minneapolis certain lands in exchange for other lands to be used for flowage purposes, to report it favorably without amendment.

Mr. NELSON. I ask that the bill may be considered at the present time. It is a local bill relating to a dam in the Mississippi River at Minneapolis.

There being no objection, the Senate, as in Committee of the whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AGRICULTURAL LANDS WITHIN FOREST RESERVES.

Mr. CARTER. I ask the Senator from Pennsylvania to yield to me for a moment.

Mr. PENROSE. I yield to the Senator from Montana.

Mr. CARTER. I ask unanimous consent for the present consideration of the bill (H. R. 17576) to provide for the entry of agricultural lands within forest reserves.

The VICE-PRESIDENT. The Senator from Montana asks unanimous consent for the present consideration of a bill, which will be read for the information of the Senate.

The Secretary read the bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. TILLMAN. It seems to me that this is rather an important bill and needs some explanation. It is so late that I hope the Senator from Montana will not press it.

Mr. WARREN. I hope the Senator from South Carolina will let the bill go through. It has been carefully considered in the House. It merely provides that if within a forest reserve there has been included some agricultural ground the Department can open it to entry. It is entirely with the Department.

Mr. CARTER. A similar bill has twice been reported by the committee.

Mr. TILLMAN. All right.

Mr. FULTON. This is a bill, I am sorry to say, to which the Senator from Idaho [Mr. HEYBURN] especially requested me to call attention in case it came up, as he wishes to be heard on it. Personally I do not wish to make an objection.

Mr. CARTER. The particular part of the Senate bill to which the Senator from Idaho objected was comprised in the words "in his discretion" as applied to the Secretary. In the House bill those words do not occur.

Mr. FULTON. I simply make the statement to the Senator. If he is satisfied that this bill will not be objectionable to the Senator from Idaho, of course I will not insist upon objecting.

Mr. CARTER. The feature of the bill to which he called special attention has been eliminated from this bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Lands with an amendment, in line 6, page 1, after the words "forest reserves," to strike out "except in the State of California."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

TOWING OF LOG RAFTS.

Mr. PILES. Mr. President——

Mr. TILLMAN. I shall have to move that the Senate adjourn. It is very late.

The VICE-PRESIDENT. Such a motion was made by the Senator from Pennsylvania [Mr. PENROSE], but was withheld.

Mr. PENROSE. I made the motion, and I am willing to yield to the Senator from Washington, unless there be objection.

Mr. PILES. I ask unanimous consent for the present consideration of the bill (S. 5372) to prevent dangers to navigation from rafts of logs or timbers on coast waters of the United States. It can not affect anyone seriously. The Senator from California asked for an opportunity to look into the bill, and he has looked into it and has withdrawn all objection.

Mr. TILLMAN. I withdraw my objection.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of Commerce and Labor to prescribe rules and regulations governing the dimensions, the methods of binding together, and the floating or towing by steam or other power of any raft or rafts composed of logs, piles, timber, or lumber on the coast waters and connecting waters under the jurisdiction of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ROE REISINGER.

Mr. FORAKER. I ask for the present consideration of the joint resolution (S. R. 13) authorizing the Secretary of War to award the Congressional medal of honor to Roe Reisinger.

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Ohio?

Mr. PENROSE. Certainly.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. WARREN. From what committee was the joint resolution reported?

The VICE-PRESIDENT. The Committee on Military Affairs.

Mr. KEAN. The Committee on Military Affairs, by the Senator from Ohio [Mr. FORAKER].

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PENROSE. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 53 minutes p. m.) the Senate adjourned until to-morrow, Friday, May 4, 1906, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May 3, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday was read and approved.

EXPENDITURES IN AGRICULTURAL DEPARTMENT.

Mr. LITTLEFIELD. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the desk and ask to have read.

The Clerk read as follows:

Whereas no examination of the expenditures in the Department of Agriculture has been made by the Committee on Expenditures in the Department of Agriculture for a number of years and such an examination is now necessary in the interest of the public service; and

Whereas said examination can not be had by said committee unless authority therefor is conferred upon said committee: Therefore, be it

Resolved, That the Committee on Expenditures in the Department of Agriculture is hereby authorized to examine, so far as the Department of Agriculture is concerned, all of the matters referred to in paragraph 42 of Rule XI of the House of Representatives, and for that purpose it may send for persons, papers, and said committee is authorized to employ a competent stenographer while conducting said examination, and to sit during the sessions of the House, and to report the result of its examination with any recommendations to the House.

The SPEAKER. Is there objection?

Mr. WILLIAMS. Mr. Speaker, reserving the right to object, I desire to say that this is a very important matter——

The SPEAKER. Does the gentleman from Maine yield to the gentleman from Mississippi?

Mr. LITTLEFIELD. Yes; I yield to the gentleman if he rises for the purpose of making an inquiry. Does the gentleman rise for the purpose of inquiring the purpose of the resolution?

Mr. WILLIAMS. I rise for the purpose of reserving the right to object, and in the interim making a statement. Does the gentleman yield to me or not?

Mr. LITTLEFIELD. Oh, yes; I yield to the gentleman.

Mr. WILLIAMS. Very well; I want to say that this is a very important matter, but it is not half so important as giving school facilities and school rights to the people of the Indian Territory by the admission of the State of Oklahoma.

Mr. PAYNE. Mr. Speaker, I object to any such statement.

Mr. WILLIAMS. And I therefore object.

The SPEAKER. Objection is heard, and the statement is made.

Mr. WILLIAMS. But the gentleman yielded to me to make the statement.

The SPEAKER. The Chair is not criticising the gentleman. He is merely announcing the facts.

Mr. LITTLEFIELD. Do I understand the gentleman objects?

The SPEAKER. Objection is made.

Mr. WILLIAMS. And for the reasons stated by the gentleman.

Mr. LITTLEFIELD. I do not care what the reasons are. If the gentleman wants to stop this investigation, he can.

Mr. WILLIAMS. And the gentleman from Mississippi does not care whether the gentleman from Maine cares or not.

Mr. LITTLEFIELD. So the honors are even.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the naval appropriation bill, and, Mr. Speaker, pending that motion, I desire to ask my colleague on the committee [Mr. MEYER] if he has any suggestion to make as to limiting time for general debate?

Mr. MEYER. Mr. Speaker, I would suggest, if agreeable to my colleague, that we let general debate run on during the day without limiting the time for general debate beyond that. I think after to-morrow morning, if it is deemed expedient, we can then fix a limit for general debate. I would further suggest that the debate to-day should be apportioned, one-half to the gentleman from Illinois and the other half to myself.

Mr. FOSS. Then, Mr. Speaker, I ask unanimous consent that general debate go on to-day without fixing any limit.

Mr. WILLIAMS. No unanimous consent is necessary for that, Mr. Speaker.

The SPEAKER. That is correct.

Mr. FOSS. And that the time be divided equally between the two sides, one-half to be controlled by the gentleman from Louisiana and the other half by myself.

Mr. WILLIAMS. No unanimous consent is necessary for that.

The SPEAKER. The Chair will state that the time to be controlled by the gentleman from Illinois and the gentleman from Louisiana would require unanimous consent; otherwise the Chairman presiding over the Committee of the Whole would give recognition and also an equal division. Is there objection?

Mr. WILLIAMS. That being the usual course, I have no objection to that.

The SPEAKER. The Chair hears no objection to the request for the division of time to be controlled by the gentleman from Illinois and the gentleman from Louisiana, half and half. The question is on agreeing to the motion of the gentleman from Illinois.

The question was taken; and the Speaker announced that the ayes seemed to have it.

On a division (demanded by Mr. WILLIAMS) there were—ayes 98, noes 27.

Mr. WILLIAMS. Mr. Speaker, I suggest that there is no quorum present.

The SPEAKER. The gentleman makes the point that there is no quorum present. Evidently there is not a quorum present. The doors will be closed, the Sergeant-at-Arms will bring in the absentees, and the yeas and nays will be called. Those in favor of the motion of the gentleman from Illinois will vote "aye," those opposed will vote "no," and those present and not voting will vote "present." The Clerk will call the roll.

Mr. BUTLER of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BUTLER of Pennsylvania. Is there any way by which this roll call will show the gentlemen who are present at this time?

Mr. CLARK of Missouri. Regular order!

The SPEAKER. The Chair will state to the gentleman from Pennsylvania that that is hardly a parliamentary inquiry.

Mr. BUTLER of Pennsylvania. I wanted it to appear in the RECORD; that is all.

The question was taken; and there were—yeas 217, nays 0, answered "present" 10, not voting 154, as follows:

YEAS—217.

Adams, Pa.	Fassett	Lamb	Richardson, Ala.
Adamson	Field	Landis, Chas. B.	Richardson, Ky.
Aiken	Finley	Landis, Frederick	Rives
Allen, Me.	Fitzgerald	Lawrence	Rixey
Bartlett	Flack	Lester	Roberts
Bates	Fletcher	Lever	Robinson, Ark.
Beall, Tex.	Flood	Lewis	Rodenberg
Bell, Ga.	Floyd	Lilley, Conn.	Rucker
Bennett, Ky.	Foss	Lindsay	Russell
Birdsall	Foster, Vt.	Littauer	Samuel
Bishop	Fulkerson	Little	Schneebell
Blackburn	Gaines, Tenn.	Littlefield	Shackleford
Bonynge	Gaines, W. Va.	Livingston	Shartel
Boutell	Garner	Lloyd	Sims
Bowersock	Garrett	McCall	Slayden
Brick	Gilbert, Ind.	McCarthy	Smith, Cal.
Broocks, Tex.	Gillespie	McCreary, Pa.	Smith, Iowa
Brooks, Colo.	Gillett, Cal.	McGavin	Smith, Md.
Brown	Glass	McKinney	Smith, Samuel W.
Brownlow	Goldfogle	McLachlan	Smith, Pa.
Burgess	Graff	McLain	Smith, Tex.
Burke, Pa.	Graham	McMorran	Smyser
Burnett	Granger	McNary	Snapp
Burton, Del.	Greene	Macon	Southall
Burton, Ohio	Gregg	Madden	Southwick
Butler, Pa.	Gronna	Mahon	Sperry
Byrd	Hamilton	Mann	Spight
Calder	Hardwick	Marshall	Stafford
Calderhead	Hay	Maynard	Stephens, Tex.
Candler	Hayes	Meyer	Sullivan, Mass.
Capron	Heflin	Minor	Sulloway
Cassel	Henry, Conn.	Mondell	Sulzer
Chaney	Henry, Tex.	Moon, Pa.	Tawney
Chapman	Hepburn	Moon, Tenn.	Taylor, Ala.
Clark, Fla.	Hermann	Mouser	Taylor, Ohio
Clark, Mo.	Hinshaw	Mudd	Thomas, N. C.
Cocks	Holliday	Murdock	Tirrell
Cole	Howell, N. J.	Murphy	Townsend
Cooper, Pa.	Howell, Utah	Needham	Underwood
Cousins	Hubbard	Norris	Volstead
Currier	Hull	Olcott	Vreeland
Curtis	Humphrey, Wash.	Olmsted	Wachter
Cushman	Humphreys, Miss.	Overstreet	Waldo
Davis, Minn.	James	Page	Wanger
Dawes	Johnson	Palmer	Webb
Dawson	Jones, Wash.	Parker	Weems
De Armond	Keifer	Payne	Welborn
Dickson, Ill.	Kelliher	Perkins	Williams
Dixon, Ind.	Kennedy, Nebr.	Pollard	Wilson
Dixon, Mont.	Kitchin, Claude	Prince	Wood, N. J.
Draper	Kitchin, Wm. W.	Pujo	Woodyard
Dresser	Klepper	Randell, Tex.	Young
Driscoll	Kline	Reeder	
Dunwell	Knowland	Reid	
Esch	Lacey	Rhinock	

ANSWERED "PRESENT"—10.

Ames	Crumpacker	Goulden	Hopkins
Beidler	Davidson	Hill, Miss.	
Cooper, Wis.	Gardner, Mich.	Hoar	

NOT VOTING—154.

Acheson	Edwards	Knopf	Scott
Adams, Wis.	Ellerbe	Lafean	Scroggy
Alexander	Ellis	Lamar	Sheppard
Allen, N. J.	Fordney	Law	Sherley
Andrus	Foster, Ind.	Lee	Sherman
Babcock	Fowler	Le Fevre	Sibley
Bankhead	French	Legare	Slemp
Bannon	Fuller	Lilley, Pa.	Small
Barchfeld	Garber	Longworth	Smith, Ill.
Bartholdt	Gardner, Mass.	Lorimer	Smith, Ky.
Bede	Gardner, N. J.	Loud	Smith, Wm. Alden
Bennet, N. Y.	Gilbert, Ky.	Loudenslager	Southard
Bingham	Gill	Lovering	Sparkman
Bowers	Gillett, Mass.	McCleary, Minn.	Stanley
Bowie	Goebel	McDermott	Steenerson
Bradley	Griggs	McKinlay, Cal.	Sterling
Brantley	Grosvenor	McKinley, Ill.	Stevens, Minn.
Broussard	Gudger	Martin	Sullivan, N. Y.
Brundidge	Hale	Michalek	Talbott
Buckman	Haskins	Miller	Thomas, Ohio
Burke, S. Dak.	Haugen	Moore	Towne
Burleigh	Hearst	Morrell	Trimble
Burleson	Hedge	Nevin	Tyndall
Butler, Tenn.	Higgins	Otjen	Van Duzer
Campbell, Kans.	Hill, Conn.	Padgett	Van Winkle
Campbell, Ohio	Hitt	Parsons	Wadsworth
Clayton	Hogg	Patterson, N. C.	Wallace
Cockran	Houston	Patterson, S. C.	Watkins
Conner	Howard	Patterson, Tenn.	Watson
Cromer	Huff	Pearre	Webber
Dale	Hughes	Pou	Weeks
Dalzell	Hunt	Powers	Weisse
Darragh	Jenkins	Rainey	Wharton
Davey, La.	Jones, Va.	Ransdell, La.	Wiley, Ala.
Davis, W. Va.	Kahn	Reynolds	Wiley, N. J.
Deemer	Kennedy, Ohio	Rhodes	Wood, Mo.
Denby	Ketcham	Robertson, La.	Zenor
Dovener	Kinkaid	Ruppert	
Dwight	Knapp	Ryan	

A quorum present.

So the motion was agreed to.

The Chair announced the following pairs:

For the session:

Mr. SHERMAN with Mr. RUPPERT.

Mr. BRADLEY with Mr. GOULDEN.

Until further notice:

Mr. KENNEDY of Ohio with Mr. HOUSTON.

Mr. DOVENER with Mr. SPARKMAN.

Mr. HITT with Mr. LEGARE.

Mr. CROMER with Mr. VAN DUZER.

Mr. JENKINS with Mr. SMITH of Kentucky.

Mr. OTJEN with Mr. PADGETT.

Mr. MANN with Mr. HOWARD.

Mr. WATSON with Mr. SHERLEY.

Mr. MORRELL with Mr. SULLIVAN of New York.

Mr. CRUMPACKER with Mr. ZENOR.

Mr. NEVIN with Mr. FIELD.

Mr. LILLEY of Pennsylvania with Mr. GILBERT of Kentucky.

Mr. DALE with Mr. BOWIE.

Mr. DAVIDSON with Mr. LEE.

Mr. SOUTHARD with Mr. PATTERSON of South Carolina.

For the vote:

Mr. GILLETT of Massachusetts with Mr. GUDGER.

Mr. HEDGE with Mr. HUNT.

Mr. DALZELL with Mr. GRIGGS.

Mr. ALEXANDER with Mr. CLAYTON.

For the day:

Mr. WEEKS with Mr. STANLEY.

Mr. KETCHAM with Mr. BURLESON.

Mr. HUFF with Mr. GILL.

Mr. HALE with Mr. ELLERBE.

Mr. FRENCH with Mr. BUTLER of Tennessee.

Mr. DWIGHT with Mr. BRUNDIDGE.

Mr. BURLEIGH with Mr. BROUSSARD.

Mr. BURKE of South Dakota with Mr. BRANTLEY.

Mr. BUCKMAN with Mr. BOWERS.

Mr. BENNET of New York with Mr. WOOD of Missouri.

Mr. BARTHOLDT with Mr. BANKHEAD.

Mr. BARCHFELD with Mr. WILEY of Alabama.

Mr. BANNON with Mr. WEISSE.

Mr. ANDRUS with Mr. WATKINS.

Mr. WILEY of New Jersey with Mr. WALLACE.

Mr. VAN WINKLE with Mr. TRIMBLE.

Mr. STEVENS of Minnesota with Mr. TOWNE.

Mr. STERLING with Mr. SMALL.

Mr. SIBLEY with Mr. RYAN.

Mr. MILLER with Mr. RAINEY.

Mr. MCKINLEY of Illinois with Mr. POU.

Mr. LOUDENSLAGER with Mr. PATTERSON of Tennessee.

Mr. LONGWORTH with Mr. ROBERTSON of Louisiana.

Mr. LE FEVRE with Mr. MOORE.

Mr. KNAPP with Mr. LAMAR.

Mr. MCCLEARY of Minnesota with Mr. DAVIS of West Virginia.

Mr. BEDE with Mr. RANSDELL of Louisiana.
Mr. ADAMS of Wisconsin with Mr. PATTERSON of North Carolina.
Mr. BINGHAM with Mr. HEARST.
Mr. BABCOCK with Mr. COCKRAN.
Mr. BUCKMAN with Mr. BUTLER of Tennessee.
Mr. DENBY with Mr. MCDERMOTT.
Mr. CAMPBELL of Kansas with Mr. DAVEY of Louisiana.
Mr. WM. ALDEN SMITH with Mr. SHEPPARD.
Mr. PEARRE with Mr. JONES of Virginia.
Mr. KAHN with Mr. GARBER.

Mr. CRUMPACKER. Mr. Speaker, I inadvertently voted "aye," and I am paired. I desire to vote "present."

Thereupon the clerk called Mr. CRUMPACKER's name, and he voted "present," as above recorded.

The result of the vote was announced as above recorded.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 18750) making appropriations for the naval service for the fiscal year ending June 30, 1907, and for other purposes, with Mr. CRUMPACKER in the chair.

Mr. FOSS. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. If there be no objection, the request of the gentleman from Illinois will be granted.

There was no objection.

Mr. FOSS. Mr. Chairman, I have tried to make an exhaustive report on the different items in this bill, but there are a few corrections which I desire to make in that report, and which in the reprint of it will be made. For instance, in the first table, "Pay of the Navy," the appropriation for last year reads "twenty millions of dollars." The appropriation was "seventeen million five hundred thousand dollars," and a reappropriation of two and a half million dollars, making in all the twenty millions.

Then under the appropriation for public works, "Bureau of Medicine and Surgery," for 1906, it should read "twenty thousand" instead of "forty thousand." The appropriation for equipment should read $845,000 instead of $945,000; so that the amount which the appropriation bill of last year carried was $100,336,679.94, and the reappropriation in addition thereto of $2,500,000. Now, Mr. Chairman, this bill which is now before the committee carries $99,734,215.77, a very material reduction from the naval appropriation bill of last year. I wish to say that the Committee on Naval Affairs had very exhaustive hearings this year. We went into the subject more carefully than ever before; and I desire here and now to express my appreciation of the hearty cooperation I received from members of the committee in getting up this appropriation bill.

The estimates submitted to us by the Department amounted, in all, to $121,569,718. This bill makes a deduction from that amount of $21,831,000. If it be a virtue for the legislative branch of the Government to reduce estimates furnished by an executive branch, then I am sure that the Committee on Naval Affairs is entitled to some credit, because, probably, taking all the appropriation bills together, there will not be shown a greater reduction from all estimates than has been made by the Committee on Naval Affairs upon this one bill during this session of Congress.

Mr. Chairman, I said a few minutes ago that we cut the estimates to the amount of $22,000,000; and that being so, we do not feel that we have sacrificed in any way the efficiency of our service during the coming fiscal year. These reductions from the estimate have been made from a comparatively few items.

First is the pay of the Navy. There was a reduction of $3,000,000. The Department recommended that we allow 3,000 additional men this year. Our present quota is 37,000; but in our hearings it developed that the Department had not been able to enlist to the full number, but were in fact 5,500 short on the 8th of January; and judging from past experience they would not be able to get more than the full quota during the coming year, the committee came to the conclusion that the present quota should stand for the coming year; and also that the appropriation for the pay for the Navy should be the same as that of last year. This made a reduction, as I have said, from the estimate of nearly $3,000,000.

Mr. LITTLEFIELD. I would like to inquire right there if the gentleman is advised of the practical difficulties that have been met with in not being able to secure the recruits in accordance with the requirements of the service?

Mr. FOSS. I will speak of that a little later, if the gentleman will excuse me. I will reach that in a few moments.

Now, the next important item from which we made a great reduction from the estimates is that of yards and docks. The estimate submitted by the Department amounts to $9,000,000; and we reduced this by $6,200,000, leaving an appropriation of about $3,000,000 for yards, stations, and docks for the coming year. We went carefully over the whole subject during our hearings, and we came to the conclusion that that would be a sufficient amount to appropriate to keep our yards in their present state of efficiency this coming year.

Then the next item was that of reserves. The Department was anxious for large appropriations for reserve guns, ammunition, and powder. The committee, however, after carefully considering that, made a reduction from their estimates of $9,000,000. The subject of reserves is a matter of policy largely—whether we shall pile up our reserves in large amounts during a single year or two or whether we shall extend them over a number of years. The committee thought it would be unwise to make this large appropriation for reserves this year, but have given the substantial appropriation of a million and a half for reserve ammunition, guns, etc., which is as much as we believe the Department can economically expend and use during the coming year.

Then the Marine Corps asked for an increase in the number of officers. The committee did not see fit to allow that this year.

From these items that I have mentioned have come the reductions from the estimates down to the amount which we recommend to appropriate this year—$99,724,000.

Upon all the items of general maintenance, such as maintenance of the different bureaus of the Department, the committee have been liberal and have granted practically what the Department has asked for, so that there need be no deficiency, in the judgment of the committee, for the general maintenance of our Navy up to its high standard of efficiency.

Now, just a word upon the personnel of the Navy. The present quota allowed by law to-day is 34,000 men and 2,500 apprentices; in all 37,000 men. On the 8th of January last the number in the service was 31,457, showing a shortage from the quota allowed of 5,443. We could enlist enough men to fill up that quota to-day if we wanted to. Last year there were 41,000 applications for enlistment, but the Navy Department is trying to secure the very best men, and therefore they have gradually raised the standard of enlistment or entrance to the Navy higher than ever before. They are seeking to secure the best men, and, for instance, rejected last year nearly 15,000 for physical disability and 13,600 for other causes.

That is to say, of the 41,000 men who applied for enlistment in the American Navy, 28,000 of them were rejected. The total number enlisted last year was 11,719.

Now, there is another thing which the Navy Department is seeking to do, and that is, as far as possible, to weed out the foreigners in the Navy. A number of years ago our Navy was composed in large part of a foreign element.

Mr. LITTLEFIELD. Unnaturalized?

Mr. FOSS. Yes; unnaturalized. But we are now Americanizing the Navy, so to speak. Ninety-five per cent of the petty officers of our Navy to-day are citizens of the United States and 90 per cent of the enlisted men are citizens of the United States. So that of the total enlisted force, nearly 92 per cent, or, to be accurate, 91.8 per cent, are citizens of the United States. Practically the only foreigners that we now have in the Navy are the Japanese and Chinese servants and the bandsmen.

Now, the gentleman from Maine [Mr. LITTLEFIELD] spoke a moment ago about desertions. Last year we had 3,227 desertions.

Mr. LITTLEFIELD. Will the gentleman explain the difficulties which are met with in enlisting the men?

Mr. FOSS. The real difficulty in the matter of enlistment to-day, I think, is due to the fact that the times are prosperous and the demand for labor is great, and the rewards of labor are greater in civil life than they are in military life.

Mr. KEIFER. I should like to ask the gentleman whether there is not another reason, which exists in the severity of the rule in the Department in accepting men? Formerly they took people who were not always sober men, and all that, but under the present rule men must have a good character and good habits.

Mr. FOSS. I think that is undoubtedly true. They have raised the standard, as I mentioned a moment ago. Really the best men that we are getting to-day are coming from the Middle West, from the farms of the West, and in my conversation with our naval authorities they say that they are getting bright, intelligent farmer boys, who are coming into the Navy full of a spirit of energy and vitality, and they are really making better seamen than any men whom they have secured heretofore.

Mr. LITTLEFIELD. Will the gentleman state the standard required by the Department?

Mr. FOSS. I haven't it here, but I can get it for the gentleman.

Now, as I say, we had 3,227 desertions from the Navy last year. That is a better record than the year before, when our desertions were 4,488.

Desertions are due to a number of causes. They are due to the restless spirit of American youth—that is one reason—and, second, they are due to the hardships of life at sea. A great many men enter the Navy thinking it is largely a life of romance, but when they get in there and find there is hard work to be done, then they want to get out. Then desertions are due largely, too, to the fact that men do not distinguish beween an oath they take to serve the Government and a contract which they make in civil life, and when men get tired of the naval service they simply quit and go home, or go somewhere else, the same as they do, for instance, when they have entered into a contract of employment with any civilian.

Now, upon this subject of the enlisted men I desire to read from the report of the Chief of the Bureau of Navigation, Admiral Converse, who, in my judgment, is one of the brainiest officers we have to-day in the service of the United States Navy. In speaking of this subject he says:

> In no other military or naval organization in the world are the interests and welfare of the enlisted personnel so closely guarded, their remuneration so great, their conditions of life on board ship so closely studied with a view to lessening the natural hardships of life as in our Navy; and until public sentiment is set right and a larger percentage of men enlisted who have a true sense of their obligation to their oath no appreciable decrease in the percentage of desertions may be looked for.

Now, so much for the personnel.

Mr. FITZGERALD. Will the gentleman yield?

Mr. FOSS. Yes.

Mr. FITZGERALD. The gentleman in discussing this question of desertions has not referred to one other cause that for some reason is always omitted in the discussion of this matter. And I call his attention to the fact that the Secretary of the Navy in his report says:

> Desertion is, in my opinion, due substantially to two causes—either bad men or bad officers.

Now, I would like to have the chairman of the committee state the action on the part of the officers of the Navy that caused large desertions from these ships and why no attempt has ever been made to correct the abuses that occur in that connection.

Mr. FOSS. I will say to the gentleman that I do not care to enter on that line of thought at this time. Later on in the discussion of the bill, if the gentleman desires, I will answer his question.

Mr. FITZGERALD. I wish to call the gentleman's attention to the fact that there is no time when this will be more pertinent, because the gentleman has just given a statement of the reasons of desertion from the Navy, and it is a notorious fact among people who are in close touch with the conduct of the Navy that in some instances large desertions are caused from certain ships, because of the intolerable conduct of some officers on those ships, and in my opinion we should consider that question just as fearlessly as we should consider other questions.

Mr. FOSS. There may be a few instances of that character, but I think, as a general rule, it is not prevalent throughout the American Navy.

Now, I want to say a word about the matériel of the Navy. As you will see from the report I have prepared, we are building a large number of ships at the present time. Most of those ships will be put in commission during the coming year. For a number of years there has been considerable congestion in the construction of our ships due, primarily, to delays in securing material and also to delays resulting from strikes.

Take, for instance, the *Nebraska*. There is a ship that was authorized some six years ago, and yet she has barely reached the final stages of completion on account of the labor occurrences which happened out in Seattle.

So, also, with some of our ships at other yards; and so, while it may appear in this report that we are building a large number of ships at the present time, we want to take into consideration the fact that many of these ships are at least two years behind the contract time. During the coming year most of our construction will be wiped out, and there will be comparatively few ships on the stocks.

Now, very often I have been asked questions with reference to the maintenance of the Navy, How much does it cost to maintain the Navy? Last year in my report I put in a table showing how much the maintenance of each type of ship cost. For instance, a battle ship costs about $500,000 a year to maintain. Then the armored cruiser and the other different types of ships I also mentioned in that statement. If you take, for instance, our naval appropriation bill of last year, which carried money appropriation appropriated and reappropriated of $103,000,000, you will find that about forty-three millions of that went to new construction, and that that left $60,000,000 which went to the maintenance of the Navy last year.

In that $60,000,000 it should be taken into consideration also that the development and improvement of the navy-yards was included, as well as the maintenance of the Marine Corps. But of the bill last year, $60,000,000, and no more, could be considered as the cost of maintenance of our Navy.

Mr. LITTLEFIELD. Will the gentleman yield?

Mr. FOSS. With pleasure.

Mr. LITTLEFIELD. While the gentleman is on this point, I would inquire whether the committee has made any estimate as to what the expense will be annually when the naval programme now indicated is completed and the ships are all finished? What will be the annual charge, approximately, at that time?

Mr. FOSS. I have a statement which was made by the Secretary of the Navy last year—which I think went into the RECORD, but I am not sure about it—which shows the estimated annual cost of maintaining the naval establishment upon completion of the vessels now under consideration at $76,591,000.

Mr. LITTLEFIELD. That would not include the ships authorized by this bill, which would make some addition thereto.

Mr. FOSS. It would make some addition thereto.

Mr. LITTLEFIELD. The ships authorized in the pending bill?

Mr. FOSS. Yes.

Mr. BURTON of Ohio. Will the gentleman yield for a question?

Mr. FOSS. Certainly.

Mr. BURTON of Ohio. In the $60,000,000 which the gentleman mentioned for maintenance is there included construction in navy-yards? In other words, does the $43,000,000 for new construction refer exclusively to ships of war and colliers?

Mr. FOSS. It refers exclusively to new ships and to payments on contracts already entered into.

Mr. LITTLEFIELD. The gentleman's question was, Does it include the ships now being constructed in the navy-yards as well, or are those included in the sixty millions? There are some under construction in the navy-yards, are there not?

Mr. FOSS. Yes; it includes those.

Mr. BUTLER of Pennsylvania. I understand the estimate which the gentleman has, which he furnished in answer to the inquiry of the gentleman from Maine [Mr. LITTLEFIELD], includes all the ships provided for in all the bills immediately preceding this bill?

Mr. LITTLEFIELD. Yes.

Mr. BUTLER of Pennsylvania. About seventy-five millions of dollars a year will maintain our Navy, personnel and matériel in the navy-yards.

Mr. LITTLEFIELD. The whole Department?

Mr. BUTLER of Pennsylvania. Yes.

Mr. LITTLEFIELD. And this will add about a million dollars?

Mr. BUTLER of Pennsylvania. I was so informed; about a million dollars a year.

Mr. GAINES of West Virginia. Does that include new construction from year to year to keep up the Navy?

Mr. BUTLER of Pennsylvania. I would refer the gentleman to the chairman of the committee, the gentleman from Illinois [Mr. Foss].

Mr. FOSS. Mr. Chairman, I will put this in my remarks to-day, so that everyone can see it and see what it covers.

Mr. LITTLEFIELD. While the gentleman is on the element of construction of naval vessels in the navy-yards, I notice in the report an item relating to the battle ship *Connecticut* where there is recommended an increased limit of cost, up to $4,600,000, being an increase of $380,000 over the limit of cost provided, made necessary by the increase of cost of construction in the navy-yards.

Mr. FOSS. Yes.

Mr. LITTLEFIELD. Has there been such experience so that we can now tell whether the Government can build in its navy-yards as cheaply as it can by outside construction, and if not, what the difference is?

Mr. FOSS. We have to-day a test which is going on between two battle ships. For instance, the *Connecticut* is being built in the navy-yard in New York, and the *Louisiana* is being built at Newport News. The chief constructor tells us that he will be unable to furnish us accurate figures until both ships are completed, but he states that the cost of the *Connecticut* will be greater than that of the *Louisiana*. That is, the Government ship will cost more than that constructed by private parties.

Mr. LITTLEFIELD. But is not able now to give the percentage.

Mr. FOSS. No; and he recommends this year that there be an increase in the limit of cost of nearly $400,000 on the *Connecticut*, and the committee recommends that, and has inserted a provision to that end in this bill. I may say in that connection, that upon all the ships which are to-day being built by the Government the battle ship *Connecticut* and the two training vessels and the colliers which have not yet been started we recommend an increase in the limit of cost.

Mr. LITTLEFIELD. What is the occasion of that?

Mr. FOSS. Due to the increased cost of Government construction.

Mr. LITTLEFIELD. Does that involve increased cost of material largely or increased cost of general operation of the yards other than was anticipated when the original estimates were made?

Mr. FOSS. No; we expected—the constructor expected—that it would cost more to build originally.

Mr. LITTLEFIELD. And it is partly on account of the fact that experience has demonstrated the accuracy of the expectations.

Mr. FOSS. Yes.

Mr. KNOWLAND. Mr. Chairman, is it not a fact that in the case of the two colliers for which an additional amount is asked that the increased cost has been largely due to the fact that since the original estimates were made the plans have been changed?

Mr. FOSS. That may be true to some extent, but I don't think entirely.

Mr. KNOWLAND. At the proper time, Mr. Chairman, I shall go into this entire question and show that the additional cost has not been due in the case of the battle ship and also the two colliers to the fact of their being built in the navy-yards.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. FOSS. Yes; for a question.

Mr. FITZGERALD. I wish to inquire whether the chief constructor, when he asked for additional money for the *Connecticut*, made a detailed statement of the objects for which it was necessary?

Mr. FOSS. He did not.

Mr. FITZGERALD. Is there any way that the gentleman knows of by which any Member of the House can obtain such information?

Mr. FOSS. Only by calling upon the constructor.

Mr. FITZGERALD. I understand that a Member of this House has done so and he has been unable to obtain that information; and the constructor has asked for an increase in cost of about 10 per cent at a time when the ship was more than 97 per cent completed. Some Members of the House would like to know why, with only 2½ per cent of the ship to be finished, more than 10 per cent of the original cost is asked.

Mr. FOSS. He can get that information, I think, from the chief constructor.

Now, Mr. Chairman, there is one thing I overlooked. I want to speak about the target practice in our Navy. It is important to have ships and, of course, it is important to have men, but it is still more important that the men in the Navy should be able to shoot straight, and I shall put in my remarks a statement as to the great improvement which we have been making during the last few years in target practice. I shall not read it, but I may say that we are indebted to Commander Sims for this improvement as much as to any one officer in the American Navy.

An examination of the records which have been made in great-gun shooting during the past three years shows a continuous and rapid improvement in the scores; and that this improvement has been genuine is indicated by the fact that the regulations under which all vessels have fired were practically uniform throughout this period, except for this year when, though the requirements were even more stringent, the scores made were higher than ever before.

The criterion in target practice is the number of actual hits made by a gun in a minute. The target is a canvass screen 12 feet high by 21 feet long, and no shot is counted a hit unless it pierces the canvas.

Each year it has been thought that certain guns had attained the limit in hits per minute that were possible with that type, but each year we have been gratified to see new records established with nearly every type of gun. This increase in hitting ability is due to the assiduous training and the target practices which have been carried out under the new system during this period, and also to improvements in ordnance.

Going back to 1898, when the Navy was using black powder, and when sights and other parts of the mechanism were poorly developed, our firing was both slow and inaccurate. At that time it was considered satisfactory if a 12-inch gun fired once in five minutes, a 6-inch gun in from 1½ minutes to 40 seconds, depending on the type, and other guns in proportion. In those days the target was 100 feet long by 25 feet high, and the percentage of hits was very small. With each subsequent improvement in ordnance the rapidity of hitting was somewhat increased, but it was only by carrying out systematic training and target practices that the present efficiency has been attained. For example, the heavy turret guns that were but a few years ago allowed 5 minutes in which to fire a shot have recently fired 3 shots and made 3 hits in one minute, while the 6-inch guns that were formerly allowed 40 seconds per shot have recently fired at the rate of 13 shots and 11.5 hits per minute. Eight-inch guns that were formerly allowed two minutes per shot have since attained a rapidity of 3.6 shots and 3.6 hits per minute. Five-inch guns which formerly fired two or three shots per minute have made 13 hits in that time, and 3-inch guns recently attained a record of 15 shots and 14 hits per minute. Six-pounders, which formerly were expected to fire five shots per minute have recently fired 25 shots and made 22 hits in a minute, firing at a target 8 feet high by 21 feet long. While it is thus shown that the most important guns—12-inch and 13-inch—now fire 15 times as rapidly as they formerly did, it must be remembered that at the same time the accuracy has improved to about an equal degree, for a high score in hits per minute can be made only when practically all shots that are fired make hits. Many ships now average between 75 and 90 per cent of hits with all their main-battery guns, whereas in former days the percentage of hits was rarely over 40, even though firing slowly at a target more than seven times as large as the present one.

Though the scores which are given above are the best that have been made with the respective calibers, they indicate the possibilities of these guns in the hands of men and officers who have been trained under the present system, and also what we may expect any man to accomplish who has had this training and has had the indispensable experience afforded by a number of target practices. It follows that with a changing enlisted personnel, which necessitates the continuous training of new pointers and new crews, these target practices must be continued if we are to maintain our present efficiency, not to mention increasing it.

The great increase in accuracy and rapidity means not only that we will be able to hit the enemy much more frequently in a given time, but that we will waste vastly less ammunition in action, for it has been found that under the present system increase of rapidity and increase of accuracy go hand in hand, and with the limited number of rounds which can be carried on a modern man-of-war this is of great importance. All of the advantages incident to this improvement have resulted from the systematic target practices (two practices each year), the improvements in ordnance, and the conscientious efforts which have been devoted to the training of the enlisted personnel, said training being based both on subcaliber firing and upon actual full-charge firing, the latter having been increased by a small percentage only.

Though it may be suggested that target practice could be held with reduced charges, it must be remembered that inasmuch as full charges must be fired in action, and inasmuch as the behavior and resistance of the gun, the gun mechanism, etc., is greatly affected by the force of recoil, it has been found that firing reduced charges creates a false sense of security and confidence in the weapons, and actually trains men under different conditions from those which will exist in battle. For this reason the Navy has for the past three years definitely abandoned the use of reduced charges. It is interesting to note that the leading foreign navies, though they have heretofore used reduced charges, have recently followed the custom of this Navy in using full charges for all target practice.

So various are the methods of target practice in different navies that it is difficult accurately to compare our results with those attained abroad; but it may be confidently stated, however, that the new methods of gunnery training which have been applied during the past three years have increased the hitting ability of our ships at least twentyfold, or 2,000 per cent, taking the average of all large guns, and it is believed that under target-practice conditions both our average scores and our best scores exceed those of any other nation.

In preparing the gunnery personnel of a ship for battle, experience has shown that two distinct stages of training are necessary. The first stage in gunnery training demands great skill on the part of gun crews to load rapidly and on the part of pointers to aim accurately and quickly, and this can not be achieved without firing the guns at target practice. The next stage demands skill on the part of those officers whose duty it will be to control the fire of the guns in battle, and similarly this can be accomplished only by holding special target practices under conditions resembling as nearly as possible those of battle. Each of these stages involve the expenditure of two separate amounts of ammunition, one for training the gun crews and one for training the all-important fire-control officers; and in order that at the critical time when our ships go into battle we may have both officers and gun crews who are thoroughly trained in their duties this expenditure is absolutely necessary.

Much can be and is done by the use of mechanical targets, loading machines, and subcaliber apparatus. In fact, the training of gun pointers and gun crews is accomplished almost exclusively by these means, but it is only by shooting the guns rapidly with full charges that we are able to train and classify our gun pointers, give our gun crews the experience of actual firing, learn and remedy the defects of our ordnance, and, most of all, give our officers the necessary experience in controlling fire at long and unmeasured ranges.

For the above purposes we require a certain minimum number of rounds per pointer per year. This number is very small. For example, the total number of rounds now required for the pointer of a heavy turret gun (from 13-inch to 8-inch caliber) is, on an average, 5 shots on record practice (for the training of the pointer and gun crew), 4 shots for the second practice of the year (for training fire-control officers), or 9 shots in all for each pointer. Similarly, for a 6-inch gun, the total number of rounds required is between 11 and 12. In order to attain the present accuracy and rapidity, experience has shown that each gun requires two pointers, one of whom gives his attention exclusively to pointing in direction and one in elevation; and as both of these men must be equally trained, the expenditure of ammunition *per gun* is double that given above per pointer.

It will therefore be seen that the number of rounds now expended is the minimum that could be fired with benefit to the training of the gun crew and the officer, and that to diminish this allowance would be to diminish at once the battle efficiency of our ships. It is popularly supposed that we now expend much more ammunition per pointer than during former years, but this is not the case, as the amount now required under the new system of training does not average more than 20 per cent greater than that formerly allowed. The increase in the total amount of money required for target-practice ammunition is therefore due almost entirely to the increase in the number of ships and the increase in the number of guns now carried by modern ships.

In this connection it may be well to state that our present expenditure *per gun* averages less than that of any of the principal navies of the world.

Now, Mr. Chairman, there is one question further that I desire to speak upon and that is upon the subject of the naval

programme authorized in this bill. Of course the committee realizes that there are many Members of this House who are in favor of building up the Navy much faster than other Members of the House. Some say we can not build the Navy too fast, while others, on the contrary, are of an opposite opinion. Now, the committee has sought this year to bring in here a proposition or to recommend a naval programme that would meet the fair judgment of the Members of this House, and in considering that question they have studied somewhat the lessons of the Japanese and Russian war. The highest naval opinion which we have upon that great naval war is that the battle ship is the real fighting ship of navies. Lord Selbourne, who was at one time the first lord of the English Admiralty, made this statement:

The lessons from the war in the Far East are the importance of the personnel, the necessity for having a margin of strength, and the fact that without battle ships no power can hold or win command of the sea.

The French naval authorities to-day are in favor of increasing their force of battle ships. For a great many years they ran to cruisers, torpedo boats, and all sorts of small craft, but to-day they are coming back to the battle ship. And so it is with the German naval authorities. They have recommended in their programme this year an increase in the tonnage of battle ships. Our own great Admiral Dewey, in an interview, in speaking of the lessons for the American Navy to learn from the Japanese and Russian war, said:

More big ships, more big guns, and good shooting. The American Navy needs more than anything else battle ships of 18,000 tons, carrying 12-inch guns, with a few, like 3-inch, for defense against torpedo-boat attacks.

The Admiral further stated:

I have changed my mind on this subject. When that programme came out I agreed with a great many other naval officers that we had ideal craft, ready to meet the enemy at each and every range, but I now realize that the modern battle is fought at a range of 3 or 4 miles, but at that range your 8-inch guns are nothing but so much dead weight on the ship. You might as well be firing with a pistol. No; it is the big ships such as the English are building and the big guns that decide the battle.

Now, Admiral Converse, as I stated a moment ago, one of the ablest officers in the American Navy, speaking of the lessons of the Japanese and Russian war, says:

A lesson of greatest importance taught by this war—the importance of the personnel—is likely, lest we be on our guard, to unduly magnify or minimize in our mind the value of various types of ships as exemplified by certain instances of the campaign. Upon the insecure conclusions derived from these an edifice of theory is erected, in the construction of which the principles which have governed for all past time, and which will always govern, are recklessly abandoned or shaped to meet the architect's plans.

As in the history of other great wars upon the seas, battle ships have in this war turned the scale of national success. Land battles, in which nearly three-fourths of a million of men have been engaged at once, have not settled as much as two fleet engagements.

The determining factor of war is sea power, and the determining factor of sea power is battle ships.

Now, what are foreign nations doing in this matter? I want to state briefly some of the recent building programmes. For instance, England has just launched the *Dreadnought*, a ship of 18,500 tons, carrying ten 12-inch guns. Germany's naval programme this year will be two battle ships of about 19,000 tons and one armored cruiser of 15,000 tons; France, six battle ships of about 18,000 tons, and some smaller craft. But this gives you an idea that the naval authorities of the leading naval powers are recommending large ships and large guns.

Mr. UNDERWOOD. Will the gentleman from Illinois allow me to ask him a question now?

The CHAIRMAN. Will the gentleman from Illinois yield to the gentleman from Alabama?

Mr. FOSS. Yes.

Mr. UNDERWOOD. I would like to ask the gentleman, if we build a ship or ships of the *Dreadnought* type, how many harbors in this country could that ship enter?

Mr. FOSS. Well, it would not be necessary to enter but a few. It could enter New York harbor, if I remember correctly. The harbor will have a depth of 40 feet. Now, the *Dreadnought* draws 28 feet.

Mr. UNDERWOOD. What is the number of feet that this ship that it is proposed to build will draw?

Mr. FOSS. About the same.

Mr. UNDERWOOD. Then, so far as the southern coast and the Southern Atlantic and Gulf coasts are concerned that ship could not go there at all; it could not protect that coast, because it would have no harbor that it could go in for supplies.

Mr. FOSS. That ship would never go into a harbor to protect the coast. That ship would meet the enemy out on the sea and give battle.

Mr. UNDERWOOD. It has to have a harbor to go back to in order to obtain supplies. It has to have a base of supplies.

Mr. FOSS. Our ships draw nearly 27 feet to-day.

Mr. UNDERWOOD. Well, I know, and for a large portion of our coast these ships that draw that much will have no harbor of refuge at all.

Mr. FOSS. There would be a few harbors in which the ship——

Mr. UNDERWOOD. And on account of the water they draw they could not defend a large portion of our coast line. But does the gentleman think it wise——

Mr. FOSS. They would defend outside; they would not defend inside.

Mr. UNDERWOOD. Does the gentleman think it wise to enter upon a naval programme to build ships that can not possibly defend at least three-fourths of the coast line of the United States?

Mr. FOSS. Well, I do not agree with the gentleman that it is necessary for a ship to be in the harbor to defend the coast line. I hope if we ever enter into a war with any nation that our ships will not remain in the harbor, but that they will go out and meet the enemy.

Mr. UNDERWOOD. Unquestionably; but we have got to have a harbor of supply—a harbor to start from.

Mr. FOSS. There will be plenty of harbors which this ship can enter.

Mr. UNDERWOOD. If I am correctly informed, I do not think there are any in the southern waters.

Mr. MEYER. I would state to the gentleman from Alabama [Mr. UNDERWOOD] that New Orleans is one of the harbors which that vessel will be able to enter, although there are now about 28 feet only, and in less than two years, long before this battle ship can be completed, she will have from 33 to 35 feet.

Mr. UNDERWOOD. I hope that in the course of time we will have much deeper harbors than we have now.

Mr. MEYER. But this work, I will say, is in the course of construction and will assuredly be completed within two years.

Mr. UNDERWOOD. Is it not a fact that the commanders of big naval vessels do not like to carry them to New Orleans to-day, even where they have a sufficient draft of water?

Mr. MEYER. They do not now, because they regard the channel at South Pass as somewhat narrow, but this new channel, the Southwest Pass, will be of ample width for any ship in the world. It is not something that is in doubt or in contemplation. It is something that is in the course of construction and will assuredly be completed within the next two years, probably in a year and a half, long before this battle ship which is proposed can be completed.

Mr. UNDERWOOD. That is only one harbor, and a dangerous harbor for battle ships.

Mr. MEYER. Pensacola has about 30 feet, I am told.

Mr. FOSS. Now, Mr. Chairman, in making up this programme and coming to a determination thereon, we considered the recommendations of the Secretary of the Navy and the different Navy boards. The General Board recommended that we build three battle ships this year, three scout cruisers, and some destroyers and torpedo boats—a programme which would have cost $35,960,000. Then the Board of Construction made a recommendation this year that we build three battle ships and some smaller boats, at a total cost of $28,700,000. Then the Secretary of the Navy made a recommendation this year that we build two battle ships, some scout cruisers and destroyers, at a total cost of $23,300,000. The Committee on Naval Affairs recommends this year one battle ship, and we believe that it ought to be a great battle ship, as powerful as any ship afloat, if not more so; and we recommend, in addition, three torpedo destroyers, and that $1,000,000 be put in the discretion of the Secretary to expend on subsurface or submarine boats after he shall have made a test as to the comparative merits of the different boats which may be presented.

Mr. SULZER. Will the gentleman yield to me for a question?

Mr. FOSS. I will yield to my friend from New York.

Mr. SULZER. I am a friend of the Navy, and favor an intelligent, up-to-date naval policy. I am in favor of building this new battle ship—the best, the fastest, and the most formidable battle ship in the world. Now, I wish to ask the gentleman from Illinois, the chairman of the Committee on Naval Affairs, if there is a provision in the bill directing where this battle ship is to be built—whether in a Government shipyard or a private shipyard?

Mr. FOSS. No; there is no such provision.

Mr. SULZER. Then will the gentleman advise us if there is any objection in having this battle ship built in a Government navy-yard, the New York Navy-Yard, for instance? I would like to see this done. I believe it will be greatly to the advantage of the Government in the long run.

Mr. FOSS. In the bill is a provision putting it into the discretion of the Secretary of the Navy to build it by private contract or in the navy-yards, and that is the recommendation which the committee make in the bill.

Mr. SULZER. Do you not think it would be wiser and better for the Government to build it in the New York Navy-Yard, because the Government has spent a great deal of money fixing up the navy-yard in New York, so that it could build a great battle ship, and in order to give it an opportunity to build the *Connecticut*, which it did build quicker and, I believe, better and cheaper in the New York Navy-Yard than it could be built in any private yard?

Mr. FOSS. I do not think cheaper. I believe that when we get the full facts that they will show, outside of the cost of fitting the yard up, that the cost of the *Connecticut* will be considerably more than that of the *Louisiana*.

Mr. LITTLEFIELD. Can the gentleman give me an approximate estimate of the difference in the cost?

Mr. FOSS. Well, it would probably be in the neighborhood of 8 or 10 per cent.

Mr. NORRIS. Which way?

Mr. FOSS. More than in the private yards.

Mr. NORRIS. That is, that the ship being built in the private yards costs less by 10 per cent than a ship of the same type precisely built in the Government navy-yard?

Mr. FOSS. Yes.

Mr. LITTLEFIELD. Which approximately makes about $600,000.

Mr. SULZER. Not at all. I differ from the gentleman in that respect. My information is that it costs the Government in the construction of the battle ship *Connecticut* about $305,000 more than it cost the Government for the construction of a sister battle ship identically the same, called the *Louisiana*, built at a private shipyard; but in that connection I desire to say that when the Government began the construction of this battle ship, the *Connecticut*, in the Government yard at New York the Government had to make many improvements, and the Government now has a great and efficient plant there, as good as any shipbuilding plant in any private yard in the country.

Mr. LITTLEFIELD. But were the improvements charged to the construction?

Mr. SULZER. I believe they are. Take it all in all, the difference in cost was very little.

Mr. FOSS. They were not charged to the construction of the ship.

Mr. SULZER. Then another thing in this connection. The Government at the New York Navy-Yard works the men only eight hours a day, whereas in private shipyards they work the men ten hours a day. Another thing, the Government pays a little higher wages to the skilled men in the New York Navy-Yard than they do in the private shipyards. These men who are employed in the Government navy-yard are skilled, competent mechanics, and we need these men in this country to build ships, not alone ships of war, but merchant ships; and it seems to me it ought to be the policy of the Government, whenever it is possible to do so, to build the Government's naval ships in the Government's own yards, especially where the Government can do it as well and as quick and as cheap as it can be done in private yards. I hope at the proper time the bill will be amended so that it shall provide that if this great new battle ship is authorized to be built she shall be built in the New York Navy-Yard and that she shall be called *New York*.

Mr. COOPER of Wisconsin. What does the gentleman think of this proposition, that without the Government yards it would be easy for the private yards to effect a combination and raise the prices above what they are to-day?

Mr. SULZER. I agree with the gentleman from Wisconsin. There is no doubt about the question. I want to say that if it had not been for the fact that the Government was building the *Connecticut* in its own shipyard, in competition with the private shipyard which was building the *Louisiana*, the price for the construction of the *Louisiana* would have been over $500,000 more. The Government yard should be maintained. It is a salutary check on the greed of the private shipyards and prevents combinations among them.

Mr. FOSS. Mr. Chairman, I should like to go on.

Mr. GOULDEN. Can the gentleman give the committee the contract price of the *Louisiana*, being built by the Newport News Shipbuilding Company?

Mr. WILLIAMS. Mr. Chairman, I rise for the purpose of suggesting that there is no quorum present in the Committee of the Whole.

Mr. KEIFER. Mr. Chairman, I make the point of order that the gentleman from Illinois in charge of the bill has the floor, making a speech, and the distinguished gentleman from Mississippi is not entitled to take him off the floor.

Mr. WILLIAMS. In reply to the gentleman from Ohio I wish to say that this House can not do business, even mere talking business, without a quorum.

Mr. KEIFER. I submit, Mr. Chairman, that the gentleman from Mississippi has not the floor for the purpose of taking the gentleman in charge of the bill from his feet.

Mr. WILLIAMS. I did not hear the gentleman from Ohio.

Mr. KEIFER. My point is that the gentleman from Mississippi has not the floor for the purpose of taking the gentleman from Illinois from his feet for any purpose.

Mr. WILLIAMS. It is a matter of privilege to make the point of no quorum at any time. The Constitution itself requires a quorum to do business, and the rules prescribe what a quorum is in Committee of the Whole.

Mr. KEIFER. Oh, well, it is a matter of right to make a motion to adjourn and to do various things, if a gentleman can get the floor; but he can not make a motion to adjourn every minute, and take a man off the floor simply because the motion to adjourn is privileged.

Mr. WILLIAMS. I have not made a motion to adjourn at all.

Mr. KEIFER. That is a matter of higher privilege.

Mr. WILLIAMS. I could make the motion to adjourn, but I can suggest the absence of a quorum at any time.

Mr. KEIFER. I submit that the gentleman was not recognized for that purpose.

Mr. WILLIAMS. I do not have to be recognized for it.

The CHAIRMAN. The Chair is of opinion that a question of order involving the presence of a quorum may be raised, and the Chair will count to ascertain whether a quorum is present.

After counting the committee, the Chairman announced 122 Members present.

Mr. KEIFER. That constitutes a quorum in the Committee of the Whole.

The CHAIRMAN. A quorum is present. The gentleman from Illinois will proceed.

Mr. GOULDEN. I should like to ask the gentleman a question, if he will yield.

Mr. FOSS. I will yield for a question.

Mr. GOULDEN. I wish to repeat my question, now that the committee has a quorum. What is the contract price of the *Louisiana*, built in a private shipyard, if you have the information convenient?

Mr. FOSS. I haven't it right here, but I will furnish it to the gentleman. It is $3,990,000.

Mr. GOULDEN. Are they asking for any additional sum by way of an increase over and above the contract price of the *Louisiana*, as they are doing for the *Connecticut* in the New York Navy-Yard?

Mr. FOSS. They are not.

Now, Mr. Chairman, I have but one word more to say. The committee has submitted what they regard as a modest programme. In view of the recommendations which were made by different boards of our Navy and by the Secretary of the Navy, we have submitted a most moderate programme. In fact, the Naval Committee is surprised at its own moderation. Not in a dozen years, whenever Congress has authorized a naval programme, has there been submitted a programme the tonnage of which is so small as the tonnage of this naval programme recommended this year. They believe this programme will satisfy the naval economists, and at the same time we believe that it will inspire the naval enthusiasts, because we recommend here a ship that shall be the largest battle ship in all the world if the Secretary chooses to make it so.

Mr. JOHNSON. Will the gentleman yield for a question?

Mr. FOSS. Certainly.

Mr. JOHNSON. I notice in your report that you say that $252,000,000 have been expended in the new Navy. What does the gentleman refer to as the "new Navy?" When did it begin?

Mr. FOSS. It began on the 4th of March, 1883. The authorization of the four battle ships, *Atlanta*, *Boston*, *Chicago*, and *Dolphin*, sometimes called the "A, B, C, and D of the new Navy," was made by an act of Congress at that time.

Mr. JOHNSON. We have now expended already $252,000,000?

Mr. FOSS. Two hundred and fifty-two million dollars has been expended.

Mr. JOHNSON. And those authorized and not completed will cost $52,000,000 more?

Mr. FOSS. Yes; making over $300,000,000 for the construction of the new Navy.

Mr. JOHNSON. Now, if it will not disturb the gentleman, I want to ask a further question. I notice that you have cut the estimate $21,000,000 from what the Department asked for. I

want to know if those cuts were made in departments where they will count, or are they in departments where the charges are fixed and later there will be a deficiency?

Mr. FOSS. No; we do not anticipate anything of that sort. We have cut only in those places where we could reasonably cut, and I explained in the early part of my speech just what particular items were reduced.

Mr. BURTON of Ohio. Mr. Chairman, I would like to ask the gentleman a question.

Mr. FOSS. I will yield to the gentleman.

Mr. BURTON of Ohio. I would like to ask the gentleman from Illinois this question: Is the shortage of men most noticeable in the ranks of the ordinary seamen or in the gunners or engineers and other branches of the service?

Mr. FOSS. I do not know that I can state accurately at the present time. As given here, the shortage is among the enlisted men. I should say probably the greatest shortage is not among the special classes, but among the seamen generally.

Mr. BURTON of Ohio. On page 15 there is a list of twelve battle ships under construction: At what date will those twelve battle ships be completed—that is, all of them?

Mr. FOSS. Of the twelve battle ships under construction mentioned on page 15, the *Virginia* is already in commission. The *Nebraska*, the *Georgia*, the *New Jersey*, and the *Connecticut* and the *Louisiana*——

Mr. LITTLEFIELD. They have all taken their trial trips, have they not?

Mr. FOSS (continuing). Ought to go into commission during the next few months. The *Connecticut* and the *Louisiana* will be ready in two or three months, and the *Vermont*, the *Kansas*, and the *Minnesota* will probably be completed during the next fiscal year. So that we will have comparatively few battle ships on the stocks at the close of the coming fiscal year.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. BURTON of Ohio. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended until he completes his remarks.

Mr. FITZGERALD. Mr. Chairman, does not the gentleman from Illinois control one-half of the time?

The CHAIRMAN. He does.

Mr. FITZGERALD. Then why has he not a right to occupy one-half of the time himself?

The CHAIRMAN. Because the rules of the House provide that no Member of the House shall speak more than one hour without unanimous consent. Is there objection to the request of the gentleman from Ohio? [After a pause.] The Chair hears none.

Mr. BURTON of Ohio. Mr. Chairman, I wish to call the gentleman's attention to the fact that two battle ships, the *South Carolina* and the *Michigan*, appearing on page 3 of the report, are to be completed in 1910. So that it appears that the present programme for authorized battle ships will not be completed until January 1, 1910.

Mr. FOSS. That is true. Those two ships were authorized last year, and they have just finished the plans for them.

Mr. BURTON of Ohio. Nothing has been done in the way of actual construction?

Mr. FOSS. No; the keel of neither one of them has yet been laid.

Mr. BURTON of Ohio. On pages 15 and 16 there is a list of vessels under construction. Are there armored cruisers authorized, in addition to this list, under construction?

Mr. FOSS. None. Two colliers and two battle ships.

Mr. BURTON of Ohio. No other boats authorized not under construction in addition to these?

Mr. FOSS. None others.

Mr. SPERRY. Mr. Chairman, I would like to ask the gentleman a question.

Mr. FOSS. I will yield to the gentleman from Connecticut.

Mr. SPERRY. I would like to ask the gentleman two questions. Are liquor rations served now on board of our vessels?

Mr. FOSS. I do not understand that they are. Grog has been abolished from the Navy for years.

Mr. BURTON of Ohio. Mr. Chairman, one further question. On page 15 there is a list of six armored cruisers under construction—the *California*, *South Dakota*, *Tennessee*, *Washington*, *North Carolina*, and *Montana*. At what date is it anticipated that the last of these armored cruisers will be completed?

Mr. FOSS. The date of construction of the *Montana*, the last ship, was January 3, 1905. The contract price was $3,575,000. The completion of the machinery plant is stated as January, 1908. The contract time is thirty-six months. It is the same for the *North Carolina*. The *Washington* and the *Tennessee* are August 9 and 10, 1906. The *California* and *South Dakota*, January 10, 1904. They were nearly two years over their contract time. In regard to the battle ships, I can give the exact time as far as they are concerned, if the gentleman wishes it.

Mr. BURTON of Ohio. If the gentleman would kindly state that, I would be obliged.

Mr. FOSS. The *Virginia*, already in commission, was two years beyond her contract time. The *Nebraska*, the *Georgia*, the *New Jersey*, and the *Rhode Island* should have been completed in February, 1904. They are over two years behind. The *Louisiana*, March 15, 1906. The *Connecticut* is not given here. The *Vermont*, the *Kansas*, the *Minnesota* should be completed in December, 1906; the *Mississippi* in March, 1907; the *Idaho* in May, 1907, and the *New Hampshire* in February, 1908.

Mr. LITTLEFIELD. Are those the contract times?

Mr. FOSS. Yes; these are the contract times.

Mr. LITTLEFIELD. So that it really does not necessarily show what the actual fact may be?

Mr. FOSS. No; but the gentleman was asking for the contract time.

Mr. BURTON of Ohio. Is it not true that in nearly all cases the dates of actual completion has been one to two years later than the contract time?

Mr. FOSS. Well, that has been due in a large number of cases, I would say to the gentleman, to the strikes and labor troubles, and also the delays in the furnishing of material.

Mr. BURTON of Ohio. Whatever the cause may be, is not that the fact?

Mr. FOSS. I think that has been largely true, that the ships have seldom been finished within the contract time.

Mr. BURTON of Ohio. When the date is given for completion, that includes the armor and armament?

Mr. FOSS. That includes the completed ship, as I understand it.

Mr. BURTON of Ohio. The equipment, as it is called, the putting in of the plant, such as coaling and provisions for living on board—is that included in this contract time?

Mr. FOSS. I am not sure. I think that is the time when the shipbuilder turns the ship over to the Government, and then so far as putting the supplies in and things of that sort is concerned, it is a matter of course for the Navy Department to regulate.

Mr. BUTLER of Pennsylvania. That only occupies a few days, I would suggest.

Mr. FOSS. Mr. Chairman, I think I have now covered the subject. I was going to speak further on some matters in connection with this bill, but I do not think I will take up further time.

Mr. LITTLEFIELD. Mr. Chairman, I desire to make an inquiry or two of the gentleman before he takes his seat. Are there any naval vessels that are now out of commission for any reason, especially because of the fact that they are not able to get sufficient officers and men to man them? I do not know what the fact may be.

Mr. FOSS. Well, I don't know that there are any from that fact. Of course there are a number of vessels out of commission undergoing repairs and things of that sort.

Mr. LITTLEFIELD. Oh, yes; but there are none so far as the gentleman knows out for any other reason.

Mr. FOSS. No.

Mr. LITTLEFIELD. I notice one or two small increases in salary and one or two increases in the number of offices in the bill. Can the gentleman give us, without too much trouble, about the time of the beginning of the reading of the bill, an estimate of how much the increase in salary is that is carried in the bill and how many offices are added?

Mr. FOSS. I do not think there is a single increase in salary in the bill. I would state that there is comparatively little new legislation in the bill.

Mr. LITTLEFIELD. There is at least one office created. That is where provision is made that the Secretary of the Navy shall expend $5,000 for legal services. That practically involves an attorney for the Department.

Mr. FOSS. That may not necessarily be an office.

Mr. LITTLEFIELD. I think it would be well if the gentleman could have his clerk prepare for us a little summary of the bill in that respect, showing the increased charge upon the Treasury by reason of any new offices that are created, and any increased charge upon the Treasury by reason of increase in salaries.

Mr. FOSS. I will have that done.

Mr. BUTLER of Pennsylvania. It was our purpose, was it not, that there should be no increase in salaries in this bill?

Mr. FOSS. I stated to the gentleman there has been no increase in salaries.

Mr. LITTLEFIELD. I think that is entirely probable, but I would like to get it in detail.

Mr. GOULDEN. Mr. Chairman, I understood the chairman of the committee to say that many of these ships were one or two or more years in being completed beyond the contract time.

Mr. FOSS. Yes.

Mr. GOULDEN. The question I desire to ask is this: Is there a penalty clause for failure to live up to the contract as to time in the building of these ships at outside yards?

Mr. FOSS. I think there is a penalty clause.

Mr. GOULDEN. One more question. Has the penalty clause ever been enforced?

Mr. FOSS. I could not inform the gentleman.

Mr. GOULDEN. I think it should be, of course.

Mr. FOSS. Mr. Chairman, just one word in conclusion. The committee felt this year that this is a very moderate programme and ought to receive the support of every Member of this House. Our interests on this hemisphere are great, and they are also great upon the other hemisphere, and it behooves our country to see to it that we are in a position always to protect those interests, and the authorization of this programme—not a large programme, but carrying, as it does, the construction of the great battle ship—will be a notice to all the world that we do not propose to forsake our interests on either hemisphere.

Now, that is all I have to say at this time on this subject. During a consideration of the bill under the five-minute rule, I shall be glad to answer any questions or to explain any parts of this bill which I may be able to do. [Applause.]

APPENDIX.

NAVY DEPARTMENT,
Washington, February 14, 1905.

MY DEAR MR. FOSS: I take pleasure in sending you herewith a copy of the report of the Board on Construction relative to the estimated cost of maintaining the Navy when all ships now under construction have been completed. I have sent a copy of this report also to Mr. J. E. WATSON, Member of Congress from Indiana, in response to his request for this information.

Very truly, yours, PAUL MORTON, *Secretary.*

HON. GEORGE E. FOSS, M. C.,
Chairman Committee on Naval Affairs,
House of Representatives.

NAVY DEPARTMENT,
BOARD ON CONSTRUCTION,
Washington, January 25, 1905.

[Subject: Cost, per annum, of maintaining Navy when all ships now under construction have been completed.]

SIR: Referring to the Department's memorandum of January 18, 1905, requesting estimates from the Board on Construction as to "what it would cost us per annum to maintain our Navy when all the ships now under construction shall have been completed," the Board begs to report as follows:

In attempting to prepare the estimates in the detail desired, great difficulty was experienced in arriving at the cost of supplies, repairs, etc., under each bureau, since the summary statements of expenditures submitted by the Bureau of Supplies and Accounts did not permit such a separation to be readily undertaken, and to arrive at approximately accurate results as to detailed expenditures under each bureau would have delayed the preparation of this report far beyond the time fixed by the Department.

The Board has therefore proceeded upon the following assumptions:

(1) That the increase of personnel will be such as to permit the placing and keeping in commission of all vessels now under construction, in addition to the three battle ships of the *Missouri* class, all cruisers of the *Chattanooga* class, four protected cruisers of 3,500 to 4,500 tons, fourteen gunboats and cruisers of from 1,000 to 2,000 tons, and about half the total number of small gunboats, torpedo-boat destroyers, and torpedo boats now on the Navy Register, with the same proportion of colliers, special-service vessels, tugs, etc., as now obtains.

(2) All battle ships now in commission, except those of the *Maine* class, will be regarded as in reserve or under general repair.

(3) The double and single turreted monitors now in commission will also be regarded as in reserve or under general repair.

The active fleet, therefore, for offensive purposes will be as follows:
Six battle ships of the *Connecticut* class.
Five battle ships of the *Virginia* class.
Two battle ships of the *Idaho* class.
Three battle ships of the *Missouri* class.
Six armored cruisers of the *Pennsylvania* class.
Four armored cruisers of the *Tennessee* class.
Three protected cruisers of the *Charleston* class.
Four protected cruisers of from 3,500 to 4,500 tons.
Six cruisers of the *Chattanooga* class.
Three scout cruisers of the *Chester* class.
Sixteen gunboats and cruisers of from 1,000 to 2,000 tons.
Eight torpedo-boat destroyers.
Twenty torpedo boats.
Two fleet colliers.

Of the above list, the following are now under construction:
Six battle ships of the *Connecticut* class.
Two battle ships of the *Idaho* class.
Five battle ships of the *Virginia* class.
Six armored cruisers of the *Pennsylvania* class.
Four armored cruisers of the *Tennessee* class.
Three protected cruisers of the *Charleston* class.
One cruiser of the *Chattanooga* class.
Three scout cruisers of the *Chester* class.
Two gunboats of about 1,100 tons.
Two training sailing vessels of 1,800 tons.
Two torpedo boats of the *Stringham* class.

In order therefore to arrive at some definite estimate of the total cost of maintaining the fleet, including the charges for maintaining all shore stations in connection therewith, the board has assumed that the current annual appropriations will suffice for maintaining the fleet as it now exists and under normal conditions, and in order to determine the total cost of maintaining the fleet when vessels now under construction have been completed, has made a separate estimate of the cost of maintaining in commission the vessels now under construction.

In making this assumption the board desires to make it clearly understood that the current annual appropriation for repairs and maintenance of the fleet must necessarily be increased by a definite amount in order to provide for the larger repairs to hull and machinery, armament and equipment, as the vessels now in commission deteriorate and are subjected to general overhauling. The amount of this increase can not be determined at this time, being necessarily contingent upon the character of the service, the number of vessels in commission, and the general wear and tear of the fleet during the next three and a half years.

Subject to these comments, the estimates submitted are believed to cover the actual cost of maintaining the Navy when all the vessels now under construction have been completed. The actual cost of maintaining in commission the vessels now under construction, including the pay of officers and men, and all charges of maintenance afloat, is submitted as a separate item, the basis of this estimate being the actual cost of maintaining in commission vessels of similar character now in service, allowing a proper percentage for increase in displacement and personnel for the ships now under construction, the total cost of maintaining the fleet as at present existing being the total of all appropriations of every character for the naval service, except those for "Increase of the Navy" and "Public works."

Cost of maintaining the naval establishment, as per appropriations 1904–5 and deficiency estimates	$54,004,000
Increase of estimates for maintenance, etc., submitted by the Bureau of Yards and Docks to cover extra cost of maintenance when public works now under construction are completed	301,000
Increase of estimates submitted by the Bureau of Medicine and Surgery to provide for increase in number of vessels in commission and hospital accommodations on shore	81,300
Increase of estimates necessary under the Bureau of Navigation and all working bureaus to cover incidental increase of expenses due to increase of work consequent upon enlarged fleet and personnel	4,595,000
Cost of maintaining in commission all vessels now under construction, including pay of personnel, coal for steaming purposes, etc	20,610,000
Total cost of maintaining fleet upon completion of vessels now under construction	79,591,300
Estimated decreased cost of maintenance of vessels now in commission which will ultimately be in reserve upon the completion of vessels now under construction	3,000,000
Estimated annual cost of maintaining the naval establishment upon the completion of vessels now under construction	76,591,300

With respect to that part of the Department's query requesting what proportion of the above charges will be for repairs, supplies, pay of officers and men, etc., the board begs to state that the consolidated statements of accounts are such as to render it extremely difficult to make a subdivision in the detail required by the Department, but so far as can be determined from the figures at hand, the approximate proportion of the above total estimate, for the various items enumerated, would be as follows:

Pay of officers and men	$32,000,000
Supplies of all kinds, both afloat and ashore, including coal for steaming purposes, provisions for the crew, etc.; also, repairs to the fleet, in all departments, and maintenance of shops and machinery plants on shore in connection with repairs to the fleet, and all incidental expenses in connection with the naval establishment	38,400,000
Ordnance	2,700,000
Target practice	1,300,000
Yards and docks, for maintenance and preservation	1,750,000
Medicine and surgery	441,300
Total	76,591,300

Very respectfully,

G. A. CONVERSE,
Chief of Bureau of Navigation, President of Board.
C. W. RAE,
Engineer in Chief United States Navy,
Chief of Bureau of Steam Engineering, Member.
W. L. CAPPS,
Chief Constructor United States Navy,
Chief of Bureau of Construction and Repair, Member.
H. N. MANNEY,
Chief of Bureau of Equipment, Member.
N. E. MASON,
Chief of Bureau of Ordnance, Member.

THE SECRETARY OF THE NAVY.

[Mr. MEYER addressed the committee. See Appendix.]

The CHAIRMAN. The gentleman from Virginia is recognized for one hour.

Mr. RIXEY. Mr. Chairman, it is not my purpose at this time to speak upon the naval bill. Later on I shall submit some remarks on the appropriation bill for the support of the Navy. I might add here, however, in passing, that since I have been a member of the Naval Committee I know of no time when the Naval Committee has given more careful consideration to the appropriation bill, and, so far as I am advised, the points of difference between the members of the committee are fewer than

usual and will, perhaps, provoke less discussion. Some amendments will be offered when these matters of difference are reached, but I do not apprehend they will take a great deal of time. At present, Mr. Chairman, I wish to take advantage of the indulgence allowed in general debate to submit some remarks upon several subjects of general interest—the tariff, rate legislation, and the necessity for Congressional investigation.

Mr. Chairman, in a speech delivered by me in this House on the 14th day of February, 1905, I said, speaking of the election of November, 1904, and of the attitude of the President and Congress in regard to the tariff:

Evidently there were those in the Republican party and high in its councils who did not construe the November victory as necessarily an indorsement of the existing tariff—fostering, sheltering, and protecting monopolies, trusts, and combines; or the present license to great railroad corporations by freight discriminations to make one man and break another; to build up one city and crush another, or to go on with the world-power idea, piling up expenses for the military, until not only the foundations of the Republic should be endangered by its military tendencies, but the very energies of the people would be exhausted in an effort to produce sufficient revenue to keep afloat the great war machines, support the land armies, and pay pensions.

Among the foremost of these Republicans who balked at the interpretation placed upon the result of the election by the "stand-patters" was the President himself, who, elected by an unprecedented popular majority, might well have construed it as not only a personal triumph, but an indorsement of all the Republican policies; but the President is known on some economic questions to be to some extent in accord with Democratic principles and tendencies.

No sooner was the result of the election announced than the President declared in effect that the contention that the tariff should be revised was well founded, and it was semiofficially given out that he would call an extra session of Congress in March to consider changes in the tariff schedules.

Consternation at once seized the "stand-patters." Their runners were sent in every direction. Conferences were held, and for a while it seemed as if the President had the upper hand; but he was prevailed upon to consult them, with the result that the project for an extra session of Congress in the spring of 1905 was abandoned, with the further announcement that it might be held later in the year—say in October.

So in this first tilt the stand-patters win out. We will see later on whether there is an October session of Congress, and, if there is, whether it is effective.

There can be no question but that the sincere advocates of tariff revision regretted the abandonment by the President of his intention to call an extra session of Congress in the spring of 1905.

They realize that delay is dangerous for the friends of tariff revision. Time gives opportunity for all the protected interests to get together to oppose all changes beneficial to the people and in many ways to disparage, lessen, or neutralize the influence of the President with the members of his own party. It does not require half an eye of prophecy to see that the President is stronger and more powerful and potent with his own party and with Congress now than he will ever be again during the remainder of his Administration. Backed by a tremendous popular majority, with many Republican Members indebted for their unexpected election to his popularity, it would be difficult, if not impossible, for the stand-patters to resist the demand of the President at this stage for a revision of the tariff. But twelve months hence how will it be?

Procrastination is not only the thief of time, but, I fear, is the thief of opportunity.

Mr. Chairman, the twelve months have come and gone, and apparently tariff revision by the Republican party is a mere "will-o'-the-wisp," vanishing as it is approached.

The "stand-patters," emboldened at their success in preventing revision of the tariff and in quieting the President on the subject, now boldly declare that they intend to prevent tariff revision prior to the Congressional elections, and whether it is had after that date will depend upon the result of the elections. The chairman of the Ways and Means Committee, and the Republican leader on this floor, in an open letter, dated March 24, 1906, to a leading Republican revisionist, which letter, given to the press and prepared presumably after consultation with the Speaker of the House, declared that—

Congress is not prepared to revise the tariff schedules in that calm, judicial frame of mind so necessary to the proper preparation of a tariff act at a time so near the coming Congressional elections.

He well knows that the next session—the last of the Fifty-ninth Congress—will be the short session, of only three months duration, and that Congress during that session will have all it can do to prepare and pass the appropriation bills. Whether there shall be a tariff revision after that date will depend largely upon the Congressional elections in November.

This is evidently the opinion of the Speaker of this House, for in a letter addressed to Col. John N. Taylor, of the Knowles, Taylor & Knowles Pottery Company, at East Liverpool, Ohio—an extract from which was published in the Washington Post under date of April 6, 1906—he said:

I am satisfied there will be no tariff revision this Congress, but it goes without saying that the desire for a change which exists in the common mind will drive the Republican party, if continued in power, to a tariff revision. I do not want it, but it will come in the not distant future.

If the gentleman from Illinois should be the Speaker of the Sixtieth Congress, and the same rules which now govern the House be adopted, he can prevent it, just as he has prevented the consideration of this subject by this Congress. He can do again what he did at this Congress—place upon the Ways and Means Committee, in the place of gentlemen known to favor revision, gentlemen whose only idea of revising the tariff is to revise it upward.

The only hope for tariff revision was bluntly and fairly stated by the Speaker in another statement given out April 6, 1906, and as many believed, because of the able speech by the gentleman from Illinois [Mr. RAINEY], which showed conclusively the necessity for reform.

In this statement the Speaker says, "If a majority of the people demand revision they will elect a majority of the Members of this House in favor of immediate general revision." And so say we all.

This position and determination not to revise the tariff is further emphasized by the fact that during the past week the Republicans put forward as their champions of the present high-tariff policy the gentleman from Illinois [Mr. BOUTELL], the gentleman from Iowa [Colonel HEPBURN], and the gentleman from Washington [Mr. CUSHMAN], all of whom declared in effect that the Republican party had no idea of making any concessions to the popular demand for a revision of the tariff. They one and all defended the schedules, especially on watches and steel, which had been shown to result in the selling of these articles abroad at considerable less prices than in the home market.

In giving protected interests the home market the people never contemplated that foreigners should be treated better in the matter of prices than the home consumers.

The responsibility is up to the people—placed there by the recognized leaders of the Republican party. The election of a Republican majority in the Sixtieth Congress means the same Republican leader on this floor [Mr. PAYNE] and the same Republican Speaker [Mr. CANNON] and a continuance of the Republican programme fairly and frankly announced by these gentlemen in the three statements referred to and given out for publication in ample time to give notice to all the voters before the elections.

The only hope for tariff revision is the election of a Democratic House, which means a Democratic floor leader, a Democratic majority on the Ways and Means Committee, and a majority pledged for tariff reform.

All hope for tariff revision or reciprocity by the Republican party may as well be abandoned. The last annual message of the President barely referred to the subject, showing that even he no longer expects his party to do otherwise than "stand pat" on the tariff. The people have no right to expect tariff reform if they elect as Representatives in Congress Republicans upon a high protective tariff platform.

It is more apparent now than ever that the only hope of the country for tariff revision lies with the Democratic party. Divided upon other questions, it is thoroughly united upon this subject, and is perfectly willing to accept the issue thus made for a revision of the tariff and for a reciprocity which will open to the United States the markets of the world, not only for the manufactured articles, but for the farm products of wheat, cotton, tobacco, corn, and cattle. The necessity for action in this direction is well set forth in the following paper prepared by a committee of twenty-seven prominent men appointed for that purpose by the national reciprocity conference held at Chicago August 16 and 17, 1905:

The farmers and stockmen of the corn belt and the range are not sharing in any fair degree in the undoubted prosperity that has come to the chief beneficiaries of the law as mutilated by a Senatorial minority. They are being robbed of markets for their surplus products which could be opened to them through the medium of reciprocal tariff concessions. For example:

Germany is the second largest buyer of food products in the world. She would probably take from $50,000,000 to $75,000,000 worth of American farm products annually under any fair scheme of reciprocity. France would buy perhaps one-half as much under reasonable trading arrangements. The American farmer has a $4,500,000,000 crop of cereals this year. The application of scientific methods is vastly enlarging our soil production. There is ordinarily an enormous surplus of farm products in excess of domestic wants. Heavy buying by Germany in anticipation of the closing of the ports of the Empire against us March 1, 1906, is helping our grain markets some just now, but what of the future? Let us quote from the Department of Commerce and Labor on the conditions to be met after the date mentioned:

"A series of notable increases affects agricultural products. Thus rye, the duty of which until now constituted the highest ad valorem rate, viz, 35 per cent, is advanced 100 per cent (i. e., to about 70 per cent ad valorem) under the new general tariff, and 43 per cent under the conventional. The specific duty on wheat, equivalent to 27 per cent ad valorem in 1903, is advanced 114 per cent under the new general and 57 per cent under the new conventional tariffs. The specific rate on wheat flour, which amounted to 35 per cent ad valorem in 1903, is raised 157 per cent in the new general (i. e., to about 89 per cent ad valorem) and 40 per cent in the conventional tariff (i. e., to about 48 per cent ad valorem). The duty of 1.60 marks on corn, which constituted 17 per cent ad valorem in 1903, is raised 212 per cent in the general tariff and 87 per cent in the conventional. The duty on dried fruit, which formed 9 per cent ad valorem in 1903, has been raised 150 per

cent under the new general and left unchanged under the conventional tariff.

"The rates on provisions have also been greatly advanced. Bacon, which hitherto paid the highest ad valorem in the list of provisions coming from the United States, viz, 23 per cent, is advanced 80 per cent in the new general tariff, while no rate is provided for in the conventional tariff. The duty on pork, which amounted to 21 per cent ad valorem in 1903, is advanced 176 per cent.

"The duty on beef, amounting to 15 per cent ad valorem in 1903, is raised 200 per cent under the new general and 80 per cent under the conventional tariff. Lard, with a duty of 11 per cent ad valorem in 1903, will be subject to a rate 25 per cent higher in the new general tariff, while in the new conventional the rate remains unchanged. Agricultural machinery, which pays on the average about 4 per cent ad valorem, will be subject to rates from 20 per cent to 88 per cent higher, according to the weight."

The conventional tariff referred to in this report applies only to those countries having reciprocal relations with Germany. The higher rate would apply to the United States. This conference goes on to state:

Indian corn is king in the agriculture of the Middle West. It can be best marketed in the form of meats, in the production of which we lead the world. It is all well enough to point to the enormous dividends and surplus of the iron masters and sugar refiners and to cite that as a good and sufficient reason for "letting well enough alone;" but the prospects of thousands of hard-working farmers in the great feeding and grazing States are not so alluring. Receipts of cattle at Chicago this fall have run from 10,000 to 30,000 head weekly in excess of the known home requirements, the result being heavy losses to growers. A market that can care for, say, 60,000 cattle per week at prices profitable to the producer can not digest 100,000. While this glut is seen at home, a meat famine exists in Europe. With train loads of bullocks selling as low as $3.50 per hundredweight in Chicago and with dressed beef wholesaled there at 6 cents per pound, live cattle and swine are worth in Germany 15 cents per pound. Surely there is something out of joint economically when such a state of affairs exists.

The country has been lavish in its protection to industries now gigantic, some of them world-dominating in their power. It is probably idle to appeal to them to be fair enough to concede that they no longer need so much protection. It will probably do no good to remind them that the farmers of the Middle West have stood steadfastly for all this protection all these years and that these same farmers could annually sell $100,000,000 worth more of breadstuffs and provisions in continental Europe alone if these same well-fattened industries would now consent to a "square deal."

McKinley in the last speech delivered by him said:

Our capacity to produce has developed so enormously and our products have so multiplied, that the problem of more markets requires our urgent and immediate attention. Only a broad and enlightened policy will keep what we have. No other policy will get more. In these times of marvelous business energy and gain we ought to be looking to the future, strengthening the weak places in our industrial and commercial systems, that we may be ready for any storm or strain.

By sensible trade arrangements which will not interrupt our home production, we shall extend the outlets for our increasing surplus. A system which provides a mutual exchange of commodities is manifestly essential to the continued and healthful growth of our export trade. We must not repose in fancied security that we can forever sell everything and buy little or nothing. If such a thing were possible, it would not be best for us or for those with whom we deal. We should take from our customers such of their products as we can use without harm to our industries and labor. Reciprocity is the natural outgrowth of our wonderful industrial development, under the domestic policy now firmly established. What we produce beyond our domestic consumption must have a vent abroad. The excess must be relieved through a foreign outlet, and we should sell everywhere we can and buy wherever the buying will enlarge our sales and productions, and thereby make a greater demand for home labor.

The period of exclusiveness is past. The expansion of our trade and commerce is the pressing problem. Commercial wars are unprofitable. A policy of good will and friendly trade relations will prevent reprisals. Reciprocity treaties are in harmony with the spirit of the times; measures of retaliation are not. If perchance some of our tariffs are no longer needed for revenue or to encourage and protect our industries at home, why should they not be employed to extend and promote our markets abroad?

Mr. WILLIAMS. Mr. Chairman, what the gentleman from Virginia is saying is said with a great deal of force, because he knows whereof he speaks. I am of the opinion that it ought to be listened to by a quorum of the committee. Therefore I suggest the absence of a quorum, Mr. Chairman.

Mr. RIXEY. Mr. Chairman, shall I proceed or wait?

The CHAIRMAN. The gentleman from Mississippi [Mr. WILLIAMS] makes the point that there is no quorum present.

Mr. RIXEY. I suppose it is not competent for me to waive the point of order——

The CHAIRMAN. The Chair will count. [After counting.] There are 103 Members present, a quorum. The gentleman from Virginia [Mr. RIXEY] will proceed.

Mr. RIXEY. In 1904 we exported over $37,000,000 worth of live meat animals to Great Britain and $94,000,000 worth of packing-house products—a total of over $130,000,000. In 1905 we exported to Great Britain 414,906 head of cattle. Since 1902 our exports to Germany of cattle on the hoof have stopped, due chiefly to the rigid inspection intended to exclude our cattle. The opening of this market would immensely help the price of cattle.

Our largest buyer is Great Britain and our next best is Germany. Our exports of bacon to Germany have decreased 50 per cent since 1898, though we exported in 1904 to that country over $25,000,000 worth of packing-house products, $6,000,000 of wheat, $2,200,000 of flour, and $72,000,000 of corn.

The report, referred to above, of the Department of Commerce and Labor shows the pressing and absolute necessity for immediate action in providing some reciprocal arrangement with Germany if we are to keep her as a customer. It is useless to say that she can not do without our products. She can look to the Argentine Republic, which is able of itself to furnish what cattle and pork Germany requires. That country already exceeds us in supplying beef to our principal market in Great Britain, and in a few years we must reckon with Canada. We should not sit supinely "upon the lid" and see the market of our second best customer in the world go to others, and that, too, as the result of our own stubborn and foolish pig-headedness. If we are to retain our friends we must show ourselves friendly. Our policy of exclusion should be relegated to the rear. We must regain and hold Germany, and should expand and extend our exports of farm products to other markets. Wise legislation, opening for our agriculture the markets of the world, will insure to the farmers unbounded prosperity.

I do not plead for the manufacturer. He already enjoys the markets of the world, and exploits the home consumer by exorbitant profits. The profits of the farmers are regulated and controlled largely by the foreign demand for his products. Some concession should be made, and that without protest by the manufacturing interests, in the matter of a reduction of the tariff rates in order that the foreign markets may be kept wide open for the unprotected farmer. This can be done by proper reciprocal relations.

It has long been contended by the Republican party that the tariff should be revised, if at all, by the "friends of protection." When will the protected interests voluntarily consent to lessen their profits, lower the tariff wall, and invite reasonable competition? Human nature is, as a general rule, the same everywhere under like conditions. The answer can well be that these things will be done in this way when the "leopard changes his spots and the Ethiopian his skin." It is useless to expect the beneficiaries of protection to "revise" their own protection. If I read the signs of the times aright, however, the time is fast approaching when the tariff will be revised by the friends of the people.

It is now late in the first session of the Fifty-ninth Congress, and the Republican party, through its chosen leaders in Congress, has stated in unequivocal terms that it intends to make no move in this matter for the protection of the farmer. Nothing will evidently be done until after the next Congressional election, and not then unless the people relegate some of the "stand-patters" to the rear and return, to the next Congress, Representatives pledged to reform of the tariff.

II.

Mr. Chairman, railroad rate legislation of some kind is, I think, reasonably well assured. The danger is that the bill which will become a law may not give the full relief it should, but be made so complicated and safeguarded and satisfactory to the corporate interests and so expensive to the shippers that it will be of little practical relief to them.

If an appeal is to be allowed in every case of a rate fixed by the Commission and, pending the appeal, the rate suspended, it will encourage railroads to appeal cases and prolong the appeals with the idea of making demands for reform so expensive that it will discourage the individual and shipper from complaining to the Commission of the railroad rate. Equipped with an army of legal retainers, costs in appeals, so far as the railroad is concerned, would be reduced to a minimum, while the expense of attorneys and the time and attention required would be too much for the individual. The fair thing is for the rate to go into effect after a reasonable time from the decision of the Commission and remain in effect unless and until reversed by the proper court. Under such a provision, which I trust will be adopted by the Senate, the inducement for useless appeals and applications for review would be largely removed.

The rate bill as passed by the House is more satisfactory than might have been anticipated, but there is still room for vast improvement, and the great debate in the Senate has shown the necessity for many amendments. The necessity for rate legislation was tersely stated by the Secretary of War, Judge Taft, in his speech at Cincinnati in November, 1905, when he said:

Men have been ruined; men have been made rich, *settlements have been destroyed; settlements have been enlarged to prosperous towns*, through the unjust favor of the managers of railroads.

Unjust discriminations are abhorrent, whether such discriminations are applied as between individual shippers or different

localities. All rates should be reasonable and so adjusted as to yield a fair remuneration to the carrier upon the actual, but not fictitious, value of his property. Competitive points rarely need protection, but it is unfair to build up the man or the city at the terminus at the expense and cost of the equally deserving man or city which has no competitive rate.

The shippers and passengers want no advantage of the railroads. They want fair treatment. Power by the bill will be lodged with the Interstate Commerce Commission (supposed to be an impartial tribunal of able men) to stand between the railroad and the people and do justice and enforce equity for each.

It is useless, however, Mr. Chairman, to shut our eyes and close our understanding to self-evident conditions and facts. The great corporate interests wield an immense power throughout the country. While it is proper that due regard should be had for these great interests, I have long since found out that these interests represented by the railroads, the trusts, and the combinations of capital will take care of themselves, and the representatives of the people need lose no sleep for fear injustice may be done combined capital. Justice is all the people want and frequently more than they get.

Mr. Chairman, a Representative who demands fair treatment and protection for the producer and the shipper is frequently denounced as a demagogue who would confiscate so-called "vested interests," especially in railroad property.

While it is true that the railroads are private property, it is only half the truth. The people who constitute the State are also interested in this kind of property. The railroads could not be built or operated without a grant called "franchise" from the State, which has the sovereign right to control and regulate them. The theory is that the franchise is granted for the benefit of the public, and it is the duty of the State or Government to see that it is not used for their oppression.

III.

Mr. Chairman, another menace to the welfare and prosperity of the country is the unbridled license to the great trusts. By combination competition is stifled and the purchasers placed at the mercy of the trust magnate. In this way enormous fortunes are accumulated and the masses are made that much poorer. We have no fight to make against the millionaire, except as he has taken unfair and unconscionable profits from his innocent victims, who, in giving him the home market by the high-tariff wall, have unwittingly placed themselves at his mercy and made themselves his easy prey.

We condemn the trusts and pass penal laws for their punishment, but penal legislation will not cure the evil.

Commissioner of Corporations James R. Garfield well says:

> It is impossible to prevent such abuses by purely penal legislation. This does not mean that the enforcement of the antitrust law has not been beneficial, for it has. Its enforcement has compelled some respect for the law, which, until recently, was wholly lacking. But so far as effecting a permanent change of the conditions which that law denounces, but little has been done. The imposition of a penalty upon a combination simply drives the men in that combination to the formation of another device for accomplishing the same purpose, and this for the reason that combination is an industrial necessity, and hence will be engaged in despite penal legislation.

The true remedy is a provision removing the tariff from any article controlled by a trust, and providing that the sale in foreign countries of articles, manufactured in the United States, at less price than sold to consumers here shall be taken as prima facie evidence that the commodity is controlled by a trust.

This would give us competition from abroad if we failed to get it at home. Enact such a law, and it will be respected. It will probably not be necessary to invoke or put it into operation.

The Republican party, however, owes perhaps too much to the great trusts and corporations to expect relief in that quarter. It doubtless owes to them its continued lease of power from 1896. The insurance investigation recently conducted in New York shows that one insurance company (the New York Life), without authority from its policy holders or directors, gave $50,000 to the Republican campaign fund in 1896, $50,000 in 1900, and $48,000 in 1904, and Agent Judge Hamilton says, and produces the receipt, that $75,000 was paid by him for this insurance company in 1896, thus making a total of $125,000 in the one campaign of 1896 by this one insurance company to defeat the Democratic candidate, Mr. Bryan. Another insurance company (the Mutual Life) gave $15,000 in 1896, $35,000 in 1900, and $40,000 in 1904. It does not yet appear what the Equitable and the Home Life contributed.

Altogether, I suppose, it is fair to say these four insurance companies of one city contributed in three campaigns half a million dollars. Who can tell what is the total of contributions by the insurance companies throughout the country? And this without Federal control! With Federal control, how much would not the Republican party have been able to extort for campaign purposes? Probably many more millions. It seems to me, after this evidence of greed and extortion, it is an exhibition of gall for the Republican party to ask for a law to provide Federal control of insurance.

It is stated that the national banks were assessed one-fourth of 1 per cent upon their combined capital and surplus, and in this way $2,000,000 was collected by the Republican party.

How much did the steel trust, the oil trust, the beef trust, the coal trust, and the great railroads of the country contribute in 1896, in 1900, and in 1904 to the Republican campaign fund? So many millions that even the Republican party, corrupt as it is, could not spend it, and common rumor, not denied that I have ever heard, has it that many thousands of dollars were left in the Republican national committee's treasury. What a commentary on the political party which preaches fair and honest elections!

In many of the States of the Union there are pure election laws, denouncing under severe penalties the use of money in elections, but the national Republican party has enacted no such law. There are signs, I am glad to say, of an awakening, however, and I trust the time will soon be passed when any political party can revel in its corruption and glory in the infamy of elections bought by money.

Wayne MacVeagh, a prominent Republican, and at one time Attorney-General of the United States, said in regard to the corrupt conditions in Philadelphia what is equally applicable to corrupt conditions in national affairs:

> Whoever helps to destroy the only basis in a republic for respect for law—a pure ballot and honest suffrage—by buying votes with money or office or any other form of corruption, is a traitor to the free institutions that our fathers founded, and his proper garb is striped clothing, and his proper place is the penitentiary; and whoever, in view of the appalling revelations of these days, continues to furnish political managers with the means of such corruption ought to be clothed in the same garb and occupy a cell in the same prison.

It is little wonder that a party which has perpetuated its lease of power by such methods should be responsible in its conduct of the public affairs for the corruption, pillage, and graft which seem ingrained into many of the great Departments of the Government. Instead of "public office being a public trust" it seems to be, under some conditions, that public office is an opportunity for private graft.

The analysis by ex-Attorney-General MacVeagh is correct, and it is refreshing to note that graft and misrule were so generally defeated and condemned in the elections of November, 1905.

When Philadelphia defeats the "gang," condemns graft, enforces an honest election and a fair count, we have the best evidence that "the vilest sinner may return." It is renewed evidence of the ability of the people to rule.

I would not make indiscriminate charges of corruption against the Government, its Departments, or its officials; but where there is sufficient evidence of corruption it should be exposed by a proper investigation made for that purpose. Why is it that the Republican party blocks every effort and demand for a Congressional investigation? There can be but one answer: The result might be damaging disclosures which would injure the political party now in power. Love of power seems to be stronger than a desire to punish the guilty.

How is it with the people? Will they be content to continue in power the political party under which this corruption and graft have flourished? Will they indorse the refusal of the Republican party for Congressional investigations?

The Post-Office Department was shown to be a web of graft and corruption, and men in high places made gains upon contracts for the Government; and yet a Congressional investigation was denied.

The Agricultural Department dismissed many of its important officials because they too had been making use of their position for personal gain; and yet a Congressional investigation was denied.

The Interior Department, more energetic perhaps than the others, not only has had to dismiss some of its officials, but has flushed bigger game, and several United States Senators and two Members of the House of Representatives have been indicted for dealings with the Departments contrary to law; and yet a Congressional investigation was denied.

The Government Printing Office has had its scandals so recently aired, that it seems useless to refer to them at length. Quiet was only restored by the resignation of the Public Printer, brought about, it is stated, upon the request of the President himself; and yet a Congressional investigation was denied.

There may not be graft and corruption in the other great Departments of the Government, and then there may be.

If there is not, investigation under authority of Congress should disclose it, and no one would be hurt. But if there is wrongdoing, and the Government has been and is still being robbed by its agents, such an investigation should show it and secure the conviction and punishment of the guilty.

The results of the elections in November, 1905, especially in the States of Ohio and Pennsylvania and in the city of Philadelphia, afford ground to hope that there is still a healthy, honest, and vigorous requirement for clean politics and honest officials. What has been done in the rock-ribbed Republican stronghold of Pennsylvania can be done in the country at large. Let the people demand not only honest politics and honest Government, but prompt investigation. Within the past few days there have been evidences of an awakening; resolutions directed against the railroads in their monopoly of the coal and the fixing of prices for this prime article of necessity have passed both Houses of Congress. Perhaps an awakened public opinion will force Congressional investigations where peculation and graft have been shown to exist. Hew to the line in this and other cases, and let the chips fall where they may. The Government is the people's and its officials their servants. They have a right to know whether their agents measure up to the standard of the faithful steward not only in their personal integrity, but in the earnest protection of the interests of the public. [Loud applause.]

Mr. FOSS. Mr. Chairman, I yield to the gentleman from Ohio [Mr. GOEBEL].

Mr. GOEBEL. Mr. Chairman, immigration and naturalization necessarily go hand in hand and are subjects of vital importance to the welfare of our common country. I am a firm believer in stringent immigration laws and in the strict enforcement of them. Several bills are now pending in this House on that subject, and I hope that in the near future some legislation will be enacted which will have a tendency to check the influx of an undesirable class of aliens. It is indeed unfortunate that, notwithstanding our present laws, we have received such a large and very undesirable class of foreigners. They are necessarily a menace to good government; and there is evidently a defect somewhere in our present system which has enabled this class of aliens to land in our midst.

But, Mr. Chairman, that subject is not before us at this time. We are now considering the bill introduced by the gentleman from New Jersey [Mr. HOWELL], as reported by the Committee on Immigration and Naturalization, which provides, in part, for a uniform rule of naturalization of aliens throughout the United States. I shall address myself especially to section 9 of the bill, which provides, among other things, "that no alien shall hereafter be naturalized or admitted as a citizen of the United States who can not write in his own language or in the English language, and who can not read, speak, and understand the English language." The reason urged for this provision is found in the report of the committee, which reads as follows:

> It has seemed to your committee that any alien of ordinary intelligence who desires to take advantage of these opportunities and to fit himself for citizenship in our country could, in five years' residence, which is required in the country before he can apply for naturalization, acquire sufficient education to comply with the requirements that he shall be able to either read in his own language or in the English language and speak, read, and understand the English language. If an alien be so deficient in mental capacity as to be unable to meet that requirement or so careless of the opportunities afforded him, it is the opinion of your committee that he would not make a desirable citizen and should be refused naturalization.

Mr. Chairman, no one will contend, as an abstract proposition, that it would not be better for the individual that he speak, read, and understand the English language; not because, in my judgment, it would make him a better citizen of the United States, but because it is the language of our country, and with it he ought to be familiar. But I resent the imputation that the absence of that requirement makes him an undesirable citizen and, therefore, naturalization should be refused him. You will observe that by this bill, although an alien may be of good moral character, a firm believer in our form of government, and willing to support and defend the Constitution and laws, and who may possess all the other qualifications of good citizenship, yet, lacking this one qualification, namely, to be able to read, speak, and understand the English language, is absolutely disqualified. Again, has it occurred to the gentlemen advocating this measure that this is discriminating in favor of the English-speaking as against the German and every other non-English-speaking alien? Why this discrimination? Why discriminate, for instance, against the Germans? Have they now become so undesirable for lacking the qualification required in this bill; and why were they not so at any other time? Read the history of the United States and you will acknowledge that the Germans have taken an honorable part in the development of our nation; in the tendency toward government for the people and by the people and in the development of national and individual prosperity the German influence has made itself felt.

The German thought tends to strengthen the feeling that implies not only right, but duty. They have never wavered in their loyalty, and in that respect never gave blind obedience to any creed, party, or class, but ever marching on to a higher aim of the moral and intellectual growth of this nation. The share of the German in the wars of the United States is by no means limited to the rebellion. From the very beginning of their settlement in this country they have always stood ready to take their place in its defense. They took a full share in the war of 1812 and in the Mexican war, and at all times gave freely of their men and their means to the cause of liberty in the war of the rebellion, and wherever they were strongest in numbers they gave more than the proportionate strength to the forces raised for the defense of the Union. In those days the question was not raised whether he could read, speak, and understand the English language. I point with pride to my German fellow-citizens and to their history, that in war and in peace they have always done their duty.

But, Mr. Chairman, it is here urged that if an alien is so careless of the opportunities afforded him as not to be able to read, speak, and understand the English language naturalization ought to be refused to him. The fact is lost sight of that he may not have the opportunities; or that he may not be able to avail himself of such opportunities. It is no answer to say that if he does not understand our language, how can he understand our form of government and its requirements of him as a citizen?

Let me say to you that newspapers and other publications printed in his own language give him the desired information. By assimilating and coming in contact with our own people he is soon informed of the requirements of a citizen under our form of government. But, Mr. Chairman, we are dealing here with naturalization affecting Federal citizenship, as distinguished from State citizenship, and there is a wide distincton between the two. One carries obligations of a different nature than that of the other. But before discussing that proposition let me say that this bill does not provide for an examination or test. It would therefore depend entirely upon the judge before whom the applicant appeared whether he can, at least to his satisfaction, read, speak, and understand the English language. In no instances, therefore, it will be observed, would such an examination or test be uniform. One judge may fix a high standard, while another may be more lax in the requirements. Again, an applicant may be able to speak and understand the English language, but not be able to read it; for, mark you, he must be able to read, speak, and understand the English language. How accurate shall he be in his reading, speaking, and understanding? Suppose the judge shall require as a test that the applicant speak correctly the name of the gentleman from Colorado [Mr. BONYNGE], or speak correctly the name of the gentleman from Hawaii [Mr. JONAH KUHIO KALANIANAOLE], would the gentleman from Colorado insist that that individual would not make a good citizen, possessing all the other qualifications, and that naturalization ought to be refused him? It can be readily seen to what absurdities this provision may lead, and the only way to obviate that condition is to establish a board of examiners, nonpartisan in its character, who shall be governed by uniform rules, so that in the examination there may not enter the whims and prejudice of a partisan or the hatred of one against a class.

Now, Mr. Chairman, coming to the proposition to which I have already alluded, I contend that as Congress can only deal with Federal citizenship the educational qualification prescribed in this bill is not essential to Federal citizenship and that it was never contemplated by the Congress. In the first place, what is citizenship? It has been defined as "the status of a citizen, with its rights and privileges." "He is a member of a nation or a sovereign state, especially a republic, and one who owes allegiance to a government and is entitled to protection from it." (See Standard Dictionary (1898); Webster's Dictionary; Century Dictionary; 6 Am. and Eng. Ency. of Law, 2d ed.)

It does not necessarily follow from this definition that the grade or quality or privilege of citizenship must be identical in all citizens, even in a republican government. In many cases arising under our system it has been repeatedly decided that the bestowal of political privileges upon an individual is not essential to constitute him a citizen. (*See Wise on Citizenship, p. 3, and authorities there cited.*) There are two kinds of citizenship in this country, *national* and *State*, each distinct from the other. A person may be a citizen of the United States without enjoying State citizenship and the special rights

and privileges which State citizenship confers. For prior to the adoption of the fourteenth amendment to the Constitution of the United States no mode existed of obtaining citizenship of the United States except by first becoming a citizen of some State; but after the adoption of the fourteenth amendment that controversy was set at rest, for that provision defines and declares who shall be citizens of the United States, namely, "all persons born or naturalized in the United States and subject to the jurisdiction thereof."

Congress is empowered by the amendment to enforce, with appropriate legislation, its provisions, and it did so by enacting "that all persons born in the United States and not subject to any foreign power, exclusive of Indians not taxed, shall be citizens of the United States." Whatever special rights and privileges it may be within the power of a State to confer upon its citizens, there are certain constitutional rights which all "Federal citizens" enjoy in common, whether they are citizens of a State or not. As to all common rights, the Federal Constitution establishes an equality between all persons, although it may be unable to confer equality as to other privileges. These rights in common are known as privileges and immunities and are fundamental in character. Federal citizenship may be acquired by inheritance, by marital relations, by the union or transfer of foreign territory, by naturalization, by treaty, by special act of Congress, by the admission of a Territory to statehood. Such a citizen owes to the Government allegiance, service, and money by way of taxes. The Government in turn grants and guarantees him liberty of his person and conscience, the right of acquiring and possessing property, security in person, estate, and reputation. Anyone may be a citizen of the United States and yet not of any particular State, but not vice versa. The Supreme Court of the United States, in what is known as the "Slaughterhouse case" (16 Wallace, 36), held that "not only may a man be a citizen of the United States without being a citizen of a State, but an important element is necessary to convert the former into the latter. He must reside within a State to make him a citizen of it; it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union." Federal citizenship is totally unconnected with the right of suffrage or the elective franchise. It does not confer the right to vote. Federal citizenship confers no political rights whatever. Civil and political rights have been definitely disassociated by the fourteenth amendment. This view was strongly maintained long before the adoption of the fourteenth amendment by the minority in the Dred Scott case, who held that a slave's lack of political rights did not prevent his being a citizen with a right to sue in the courts. This, however, is no longer disputed.

A Federal citizen owes only a duty to the General Government, and that is limited in its extent. It must be remembered that the Federal Government has no greater power than that which the States have expressly granted and that all other powers have been reserved by the States. We must, therefore, conclude that the powers so granted are never exclusive of similar powers existing in the States, except when exclusive powers have been given, or the exercise of like powers is prohibited to the States, or when there is a direct repugnancy or incompatibility in the exercise of it by the States.

A closer sudy of the question will reveal how little has been conferred upon the Federal Government as to the right of creating Federal citizenship and how much has been retained by the States; for let me repeat that Federal citizenship requires only fidelity and obedience by the individual to his Government; he must bear his burden necessary to sustain the Government by the payment of taxes, and he must be ready to bear arms or render other personal service for the common defense and for the security of the liberties and general welfare of the Government. In return for this he receives the protection of his Government in the manner that I have already indicated.

I pause now to ask whether in conferring Federal citizenship, or whether in the enjoyment of the rights which such citizenship confers, it is essential that the beneficiary be able to read, speak, and understand the English language, and whether such qualifications (if you may so term it) are essentially prerequisite to conferring citizenship and in the enjoyment of it. I contend that it never was contemplated by the States that any greater power be conferred upon the Federal Government in that regard than was absolutely necessary to safeguard the Government against an alien of bad character and not disposed to the good order and happiness of our Government; and that it was left to the State to enact all further restrictions, and this must be apparent.

The present acts of Congress relating to naturalization of aliens, except as to the amendments relating to the thirteenth and fourteenth amendments, has been in force for more than one hundred years. It has stood the test of time and expediency. What necessity is there for engrafting upon the Federal statutes such a qualification? Why not leave it, as it has been left, to the States to regulate, though Congress has the power to so prescribe? It might with some force be said that the educational qualification is essential in the exercise of political rights. Its wisdom, however, I question. These political rights, however, are conferred by State citizenship, as I have stated, and not by Federal citizenship. These rights were reserved by the States. Although the Federal authority within its scope is supreme and beyond the States, it can not prevent nor secure to its citizens rights and privileges which are not expressly or by implication placed under its jurisdiction. Therefore one of the greatest privileges of a State citizen is the right of suffrage, or the elective franchise. This, I have shown, is not conferred upon a Federal citizen. The privilege of voting arises under the constitutions of the States and not under the Constitution of the United States.

It is within the power of the State to prescribe the qualifications of a voter, and the power is almost without limitation. In some States the right to vote has been granted to persons not citizens. It can restrict the right to either sex or give it to both. The State may go to any length in determining the qualifications of voters. The United States circuit court, in the case of The United States against Anthony (11 Blatchford, 205), held that a State may, without violating a right derived from the Federal Constitution, provide that no person having gray hair or who has not the use of all his limbs shall be entitled to vote. The only restriction upon the States is that they can not exclude a citizen from the enjoyment of the franchise on account of race, color, or previous condition of servitude. It is true that a citizen of a State owes a dual allegiance, but the nature of the obligation is different.

I have tried to draw a distinction between a Federal citizen and a State citizen, and that the former has only civil rights while the latter has both civil and political rights. The qualifications prescribed by section 9 of this bill can have only a bearing or relate to the exercise of political rights, and hence are not essential or prerequisite to Federal citizenship.

Entertaining these views, I shall, at the proper time, move to strike out the objectionable feature. [Loud applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. DICKSON of Illinois having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had insisted upon its amendments to the bill (H. R. 395) concerning foreign-built dredges, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. FRYE, Mr. GALLINGER, and Mr. BERRY as the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 4983. An act granting an increase of pension to John M. Farquhar;

S. 5891. An act to authorize the South and Western Railway Company to construct bridges across the Clinch River and the Holston River in the States of Virginia and Tennessee; and

S. 5890. An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River in the States of Virginia and Tennessee.

NAVAL APPROPRIATION BILL.

The committee resumed its session.

Mr. FOSS. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. BATES].

Mr. BATES. Mr. Chairman, the American people desire a strong navy. The present bill carries items for maintenance and increase, and in all an expenditure of about $100,000,000. This desire on the part of our people for an efficient and constantly increasing naval establishment is not for the purpose of aggressive warfare, but in order that peace and tranquillity may obtain and our rights as a nation be observed. An inefficient navy will not answer this purpose.

An efficient army and navy or State militia is of value, not for the purpose of making war but for the sake of preserving peace. We are at present appropriating nearly $100,000,000 annually for the Navy; about seventy-one million for the Army; about twelve million net for the postal service, including free rural delivery. We are paying out for pensions about one hundred and forty million; for encouragement of agriculture about seven

million; for civil establishment about sixty-seven million; we also make fair appropriations for public buildings and rivers and harbors. We have advanced a large sum in behalf of the isthmian canal. It costs something to administer the affairs of the Government of the United States. The annual appropriations are about seven hundred million. We can congratulate ourselves on having sufficient revenues to make these vast expenditures. Never before have we had sufficient money to carry on such great operations. And yet almost daily attacks are made on our system of revenues which makes these things possible.

It is in the nature of things that individual citizens as well as particular interests should object to paying what others may consider their full share of the public revenue. Town councils and boards of revision and appeal are continually hearing protests of citizens who think that their property is assessed or charged unduly. Legislatures meet in the several States and consider long and earnestly whether this or that species of property shall bear a greater or less burden of taxation. We have heard in this session the words "the damnable principle of protection," followed by cheers on the Democratic side. There have been specific protests. Gentlemen plead strongly for a reduction of internal revenue on tobacco, "a mere matter of a million or so," and others would welcome more moderate charges on distilled or other liquors. Those interested in manufacture of goods would have the tariff taken off raw materials; while some consumers claim that a reduction on manufactured goods would lessen the cost of the product. The gentleman from Mississippi [Mr. BYRD] made the unique argument that the farmers are being robbed because of a tariff on agricultural machinery and implements, as if these articles were ever cheaper to the consumer than now or could be under any circumstances. The fact is that the American farmer never obtained such uniformly good prices for all that he sells as he does to-day, and never would his products purchase so much by way of tools, machinery, and in fact all he has to buy, than now. If there is one class of people at present satisfied with the conditions brought about by Republican policies and Republican control, it is the American farmer.

It seems to be a popular position to oppose and attack every form of tax and impost and to vote for every apropriation bill. Rural free delivery is a splendid thing. The country demands a greater Navy. Governmental aid for expositions finds much favor, and we all will hail the day when the waters of the great oceans shall mingle across that narrow Isthmus. But if all the voices of argument and pleading that have been heard in this House, even in this session, protesting against specific burdens whereby the public moneys are raised should prevail, we would suddenly find ourselves without sufficient ways and means to continue our present scheme of government and awake to find a bankrupt Treasury. This all shows that the scheme of raising revenue is composite; that it is the product of many men of many minds, a yielding of individual judgments and opinions for the good of society and the State.

Great importance is sought to be attached at present to the oft-repeated statements that some American producers are selling abroad cheaper than at home. No denial or apology needs to be offered in this respect. It has been pursued by other nations for hundreds of years, in fact, by all the manufacturing nations of the earth, and without any reference to whether they operated under a protective tariff, a revenue tariff, or absolute free trade. England pursued this course in former days. In 1816 Lord Brougham, in a speech in Parliament advocating the increased exportation of British goods to the United States, declared that "it was well worth while to incur a loss upon the first exportation in order by the glut to stifle in the cradle those rising manufactures in the United States, which the war had forced into existence." In 1854 a British parliamentary commission reported as follows: "The laboring classes generally in the manufacturing districts of this country, and especially in the iron and coal districts, are very little aware of the extent to which they are often indebted for their being employed at all to the immense losses which their employers voluntarily incur in bad times in order to destroy foreign competition and to gain and keep possession of foreign markets."

The matter has been investigated in this country, and four years ago a nonpartisan commission was appointed to investigate the subject. In April, 1904, Senator GALLINGER, in a speech in the Senate, placed the value of exports sold at a lower price abroad than at home at $4,000,000. The correctness of this estimate has never been questioned. Our aggregate manufactures were placed by the census of 1900 at $13,000,000,000; they are doubtless larger now. On the figures given, however, the amount sold abroad cheaper than at home would amount to one-thirtieth of 1 per cent; that is, for every $1,000 worth of manufactured products about 30 cents worth is sold abroad cheaper than to our own people. The amount is so small compared with the aggregate output of our factories as to be unworthy of consideration.

The report of the Industrial Commission shows that some of these articles are protected in this country by patents and are not so protected in the foreign market. The fact is that in this country many manufacturers, such as those of harvesters, mowers, and reapers, employ their own salesmen, and therefore quite a considerable percentage of the cost to the consumer goes to the salaried general agents, the well-paid selling agents, and the cost of collections of notes and occasional losses. When a manufacturer sells 1,000 or 10,000 machines abroad, all this vast item of expense is saved, and the distribution in foreign lands is effected on a much more reasonable scale.

Nearly every class of goods brought into this country can be bought for export to this country at a lower price than the regular foreign market. This is true in tariff-for-revenue England as in France and Germany.

During the fiscal year 1904 $35,000,000 worth of merchandise was imported at New York below the foreign market value, and the importer voluntarily added $1,500,000 to the invoice to make market value as to confessed difference between the price actually paid and the regular foreign market value, and the Treasury officials added thereto an additional $400,000 and imposed and collected a penalty of $400,000.

These goods thus sold by foreign manufacturers cheaper for export to our country than for the home consumption included cotton goods, woolen goods, silk goods, linen, trimmings, velvets, hosiery, rugs, furs, cutlery, glassware, jewelry, furniture, wool, hides, chemicals, machinery, iron, and steel, and in fact almost every class of articles from all countries.

This special commission to which I have referred seem to have made a most careful investigation. They obtained testimony concerning a large number of manufacturing establishments in all parts of the country. From the hundreds of answers received from the different manufacturers most careful compilations were made.

In discussing the testimony adduced the Commission says: "A great majority of the answers indicate that prices are no lower abroad than they are for domestic consumers, and a considerable number indicate that foreign prices are higher."

The argument that the tariff should be taken off those goods which are sold abroad cheaper than at home is fallacious and unwarranted. Such a course would destroy our home manufacturing industry, which employs about 6,000,000 wage-earners, and pays to them about $3,000,000,000 per annum, merely because the manufacturers are willing to forego their profit on a very small percentage of the value of their products in order that they may keep labor employed, and also by increasing the employment of labor through the additional markets which they naturally obtain by such foreign sales.

The president of the great exporting firm of Flint, Eddy & Co., New York, Mr. C. R. Flint, said in his testimony before the Industrial Commission:

> There are times when there is a surplus, when manufacturers will seek a foreign market at a concession. This is true in all manufacturing countries. It does not apply especially in the United States, but it is true in all countries. It is true in England, where there is free trade.

Being asked if there was any difference in that particular between trust-made goods and goods made independently of trusts, he replied that—

> There was far more of a disposition to make concessions before these combinations from the fact that individual manufacturers were under more pressure of necessity to realize on their investments. The great industrial combinations, by reason of the great advantage they have in regulating production, avoid excessive production, and therefore are less likely to be under financial pressure.

United States Consul-General Richard Guenther, in a report to the State Department a few months ago from Frankfort-on-the-Main, Germany, said:

> The manager of a large carbon works writes to the Daily Mail in reference to a proposition of a German firm to establish in England large works for the manufacture of carbons for electric arc lamps that the English factory at Whiton, near Birmingham, has for the past two years turned out carbons for the Government, municipalities, and other users of a quality and prices which compete with German manufacturers.

He adds:

> The amount of "dumping," with a view to killing the carbon industry in this country would astonish the most inveterate importer. Foreign manufacturers sell at something like 40 per cent cheaper than in their own country.

The statement is made that steel rails are sold cheaper in Canada and Mexico than on our own soil. The reason for this is that steel rails at those two points are sold under the sharpest competition. It is the competition with cheap labor. It

is not a question with the American manufacturer of selling even at a fair profit in such a market, but rather the question whether he will yield the market at such points and allow foreign competitors to gain a foothold. An additional fact is that the Canadian government is now paying bounty, or bonus, to their own manufacturers—$3 per ton on pig iron, and $3 per ton on steel ingots.

Under these conditions, in the face of a bounty and cheap labor, the American manufacturer considers it business policy to hold such a market rather than yield it to his competitors.

The testimony before the Merchant Marine and Fisheries Committee during the month of April, 1906, brought out the fact that the price of steel rails in England and Great Britain is $31.50, and the export price in Great Britain is $25; in Germany the home price is $30, the export price, $24; in France the home price is $31, the export price $25.50; in Austria the home price is $31, the export price $25.50; in Belgium the home price is $30, the export price $25; in the United States the home price is $28, the export price $26.60.

These figures are from authorized publications which give the price from time to time. It was further shown that the United States Steel Corporation only manufactures about 60 per cent of the entire output in this country, the rest of the field being occupied by rival independent concerns. This commission further reports:

EFFECTS OF TARIFF REMOVAL.

Removal of the tariff, even in any single industry, should not be lightly considered. When the tariff is essential to any industry its removal would doubtless kill not only the combination, but the industry itself, bringing upon the country attendant evils. Even if the industry is not killed, if severe pressure is brought to bear the industrial combination will not be the first victim, but rather its domestic competitors possessed of less advantages in manufacturing or less financial strength to withstand competition.

The removal of the tariff, then, will not abolish combinations unless it abolishes the industry. The domestic competitors of combinations might be largely cut off by tariff reductions or removal, and the combination survive with moderate profits, and yet be forced to sell its products to domestic customers at much lower prices. But this sharpening of foreign competition by the removal of the tariff would, beyond any doubt, lead American combinations in some cases to enter into international combinations. Already we have the thread industry of England and of the United States, indeed the thread industry of the world, largely in the hands of an international combination.

The borax trade is also organized internationally, and there have been efforts to bring about an international iron and steel combination. In Europe many combinations have crossed national boundaries. The advocates of lowering or removing the tariff in any line of industry should inquire carefully whether its effect might be to produce an international combination, and if so, whether such an international trust would be desirable.

The possible effects upon wages of a reduction or removal of duties must also be considered, and the further possibility of admitting to this country the surplus stocks of European manufacturers at rates so low as to seriously cripple our home manufactures. If our manufacturers extend their foreign markets by selling at low rates abroad, they but follow the example of European manufacturers, who for years have disposed of surplus stocks in this country so as to keep their factories going to their full capacity. What can be gained by helping foreign trusts in order to hurt domestic trusts is not apparent.

Under our present tariff laws our foreign trade has grown enormously in the last eight years. It is still rapidly increasing. This is true alike of exports and imports. We are better customers of other countries than ever before, and at the same time the outside world is buying even more liberally of us. Our exports in 1905 were greater than those of any preceding year. The exports so far reported of 1906 are one hundred and ninety millions in excess of those of the corresponding months of 1905. The imports for the eight months ending February, 1906, are $71,000,000 greater than those of the corresponding period of the previous year. In exports of manufactures there has been an increase of $45,000,000.

The American farmer will be pleased to know that in the eight months ending February, 1906, according to the Bureau of Statistics of the United States, there has been an increase of $133,000,000 in exports of farmers' products. During that same time there has been a decrease of $13,000,000 in importation of food products. The increase in exports is chiefly in wheat, flour, corn, oats, and provisions. This does not look as if protection obstructs the finding of outlets for our industrial production, nor does it indicate that the American farmer is being shut out of foreign markets. The indications are that our foreign trade for 1906 will reach the astounding figure of $3,000,000,000. Our foreign trade has more than doubled in the last ten years. There is no better barometer of industrial activity than the sale of iron and steel. In 1893 we produced 6,000,000 tons of pig iron; in 1895, 8,000,000 tons; in 1898, 11,000,000 tons; in 1901, 15,000,000 tons; in 1903, 18,000,000 tons; in 1905, 23,000,000 tons.

The sale of steel has steadily increased from 1898, when it was 8,000,000 tons, to 14,000,000 tons in 1904. Our exports of iron and steel have increased prodigiously. In 1890 their value was $25,000,000, in 1898 it was $70,000,000, in 1902 it was $98,000,000, in 1905 it was $135,000,000.

The value of our exports of cotton have increased from $17,000,000 in 1898 to $50,000,000 in 1905.

Mr. CLARK of Missouri. Will it interrupt the gentleman to ask him a question right there?

Mr. BATES. No; I think not.

Mr. CLARK of Missouri. Now, if it should turn out that the exports and imports of all the countries have increased for the last ten years, would it not indicate that there was a general era of prosperity all over the world rather than our tariff had made an extraordinary year of prosperity here?

Mr. BATES. Why, Mr. Chairman, it might indicate that, and it would indicate more; that the daily cry from the gentleman's side of this Chamber that the American people are being oppressed; that they are poverty stricken; that our laboring people are ground down in hunger and penury is not borne out by the facts, and that there is a rising tide of prosperity shown in this country. There is, however, no such increase in prosperity in other countries as in our own.

Mr. CLARK of Missouri. Is it not that there is a rising tide of prosperity all over the world? Another question. Of course I do not want to inject my speech into yours. If it is true, as you stated a while ago, that steel rails sell in all the rest of the foreign countries above what they do in the United States, then what sense is there in making this tariff on steel rails and keeping rails out of the United States?

Mr. BATES. I did not give the price of steel rails in the United States. Besides that, we do not want to let down the tariff and allow this country to be made the dumping ground of the cheap labor of other lands. This would surely happen unless we reduced our labor to the starvation rate paid abroad.

Mr. CLARK of Missouri. Well, the price here is $28 a ton, as a rule, and you said $31 and something in England.

Mr. BATES. I will say to my friend from Missouri that it is because in England, while they sell to their own home consumers at $31.50, they sell abroad at $25 a ton.

Mr. CLARK of Missouri. Now, take that statement. Where does the gentleman get the evidence from to support that statement?

Mr. BATES. I get it from testimony adduced before a committee of this House.

Mr. CLARK of Missouri. Now, if our steel-rail manufacturers can afford to sell our steel rails abroad for $20 or $21 a ton, then how can their market be in danger by taking this tariff off when you say the cheapest rails sold in Europe are $24 a ton?

Mr. BATES. I do not think the statistics show that there is any profit in steel manufacturers selling rails at such a price as the gentleman has named, and I do not think he can show that any sales have been made at those figures.

Mr. CLARK of Missouri. Do you not know that the second largest manufacturer of steel rails in this country, when sitting on the floor of this House, as a Member of it, said that steel rails could be made at $12 a ton, if you take off the tariff, and make plenty of profit to sell them at $16?

Mr. BATES. I think that was one of the extravagant statements that the gentleman, formerly from Ohio, on this floor, loved to indulge in.

Mr. CLARK of Missouri. But he did make that statement, and he was one of the largest manufacturers of steel rails at that time.

Mr. BATES. I do not know how much he was interested in manufacture of steel rails. He was interested in many, many other matters. I do not think he had any special knowledge of the matter.

Mr. PAYNE. I will ask the gentleman from Pennsylvania if it is not a fact that that manufacturer of steel rails was manufacturing patent street-railway rails, and that he was, of course, without competition from any place in the world, tariff or no tariff? He had patents, hundreds of patents, that absolutely cut off all competition.

Mr. CLARK of Missouri. Is it not true that in the manufacture of steel rails he had such success as to have made about $7,000,000?

Mr. BATES. I think the man got rich, but I think the gentleman will recognize a difference in the price of iron that produced steel rails at the time Mr. Johnson made his speech in the House and the price of iron to-day.

Mr. BUTLER of Pennsylvania. When did he make that speech?

Mr. CLARK of Missouri. In 1894.

Mr. PAYNE. Back in 1893 or 1894.

Mr. BATES. That was not a good year.

Mr. CLARK of Missouri. Suppose you add to it the extraordinary cost?

Mr. PAYNE. In 1894 he was here and voted for the Wilson tariff bill, and voted for it notwithstanding the fact that there was a large protective duty on rails at that time——

Mr. CLARK of Missouri. Let me ask the gentleman from New York a question——

Mr. PAYNE (continuing). And it passed this House.

Mr. CLARK of Missouri. Let me ask the gentleman who he said it was voted for the Wilson tariff bill?

Mr. PAYNE. This man Johnson. Tom Johnson, of Ohio.

Mr. CLARK of Missouri. He voted against it, and begged me on the floor of this House to vote against it, and I wish to Heaven I had. [Laughter and applause on the Republican side.]

Mr. PAYNE. It was the best that the great Democratic party could do.

Mr. CLARK of Missouri. No; it was not the best that the Democratic party could do.

Mr. PAYNE. And a good deal better than they will ever try to do again.

Mr. CLARK of Missouri. No; the bill that the great Democratic party passed through this House was a good tariff bill.

Mr. PAYNE. Oh, but that bill passed through this House with a protective duty on steel rails, and Mr. Johnson voted for it when it passed the House.

Mr. CLARK of Missouri. No, sir. Mr. Johnson never voted for the Wilson bill.

Mr. PAYNE. He voted against the Senate amendments. That is what he voted against. He voted for the bill as it passed the House.

Mr. CLARK of Missouri. Of course he voted against the Senate amendments, and he voted against the bill on its final passage in this House.

Mr. PAYNE. No; he did not. He voted against concurring in the Senate amendments.

Mr. WILLIAMS. In answer to a question from the gentleman from Missouri, the gentleman from Pennsylvania [Mr. BATES] replied that his statement that steel-rail makers in Great Britain sold rails at one price there and at another price for export was founded upon testimony before a committee of this House.

Mr. BATES. The uncontradicted testimony.

Mr. WILLIAMS. Will he please give the House now the name of the witness or witnesses who so testified.

Mr. BATES. I have no objection. The testimony was uncontradicted testimony before the Committee on the Merchant Marine and Fisheries.

Mr. WILLIAMS. Who were the witnesses? It was contradicted, by the way. The gentleman said it was uncontradicted. Now, yesterday I quoted——

Mr. BATES. I object to having the gentleman inject his speech into the body of mine.

Mr. WILLIAMS. I am not injecting a speech. I am asking the gentleman a question, and instead of answering it he proceeds to make a statement, and that statement is unwarranted, because I yesterday showed four witnesses who contradicted it.

Mr. BATES. I object to the gentleman making a speech in my time.

Mr. WILLIAMS. Now, I ask the gentleman for the names of the witnesses. My question was the names of the witnesses.

Mr. BATES. I will give you one. I remember the name of one, and that was the president of the board of directors of the United States Steel Corporation, Mr. E. H. Gary.

Mr. WILLIAMS. Who else?

Mr. BATES. I do not remember the names.

Mr. WILLIAMS. Will the gentleman, if he can find anybody else, put his name in the RECORD with his speech?

Mr. BATES. Possibly. I do not think the gentleman ought to dictate to me what I shall put in my speech.

Mr. PAYNE. The gentleman had better make his own speech.

Mr. HULL. I would make my own speech in my own way.

Mr. BATES. Do you deny that statement of Mr. Gary?

Mr. WILLIAMS. I absolutely deny it, and defy any corroboration or support of it from any authoritative source.

Mr. BATES. Where is your authority for denying it?

Mr. WILLIAMS. My authority is that there is no corroboration of it from any other source. [Laughter on Republican side.]

Mr. BATES. Mr. Chairman——

Mr. WILLIAMS. The gentleman has asked me a question. Now, will the gentleman let me answer it?

Mr. BATES. I asked the gentleman his authority for denying that statement.

Mr. WILLIAMS. It will only take me a minute to answer the question.

Mr. BATES. Is it possible that the gentleman, out of his own inner consciousness, can evolve information that will contradict the testimony of Mr. Gary, who knows all about the business?

Mr. WILLIAMS. Now, Mr. Chairman, if the gentleman will indulge me just a moment——

Mr. BATES. Certainly.

Mr. WILLIAMS. I will not disturb him long. I asked the gentleman for the name of the witness or witnesses. He has given me the name of one of the officers of the United States steel trust, the very people who were charged with this offense against the public. Now I ask him, if there are any other witnesses except this interested witness, please to put the names of the other witnesses and their testimony in the RECORD with his speech.

Mr. PAYNE. I will ask the gentleman if there is any witness on the other side except the interested witness from Mississippi, who knows nothing about the business practically.

Mr. WILLIAMS. The gentleman can not make that statement uncontradicted upon this floor. I yesterday produced the names of four witnesses, and they will be in the RECORD tomorrow, and the gentleman's ipse dixit can not do away with them, and you knew that I would produce them when you made that statement, if you listened to what I said.

Mr. PAYNE. The gentleman from New York did not know it, and the gentleman from Mississippi had no reason to suppose that the gentleman from New York knew it.

Mr. WILLIAMS. I said the gentleman knew it if he had listened to what I said before.

Mr. PAYNE. The gentleman from New York did not hear any such statement.

Mr. BATES. I desire to say, Mr. Chairman, that the gentleman from Mississippi called the chairman of the board of directors of the United States Steel Corporation an interested witness. I do not believe that the gentleman [Mr. Gary] is half as much interested in the item of the price of steel for domestic and foreign output in Great Britain as is the gentleman from Mississippi. I do not believe that item would affect the financial or any other interest of Mr. Gary half as much as it affects the political future of the gentleman from Mississippi, because that one fact tumbles the card house that he and his colleague from Mississippi [Mr. BYRD] and the watch detective, the gentleman from Illinois [Mr. RAINEY], have been trying to build up in this House for the last week—to wit, the fact that the foreign price of manufactured goods is cheaper than the domestic price, and therefore warrants an assault on the protective-tariff laws of this country. And when we show this same state of facts exists in free-trade England the whole card house falls, and the gentleman from Mississippi must know it. [Applause on the Republican side.]

Mr. GAINES of Tennessee rose.

Mr. BATES. Now, Mr. Chairman, I decline to yield further.

The speech delivered in this House a few weeks ago by the gentleman from Mississippi [Mr. BYRD] would lead us to believe that the working people of this country were at the present time in dire distress. I wish to call attention to the increase in the amount of money on deposit in the savings banks of the United States, and, what is more significant, the increase in the number of the depositors. In 1890 there were about 4,000,000 depositors in the savings banks of this country; in 1896 there were 5,000,000; in 1900 there were 6,000,000; in 1905 there were 7,700,000.

The amounts of money they have deposited have increased $1,250,000,000 in the last ten years, or from $1,700,000,000 in 1894 to $2,000,000,000 in 1898, and $3,100,000,000 in 1905.

The value of the farm animals of the United States has more than doubled in the last ten years. In 1896 it was $1,700,000,000; in 1906 it was $3,600,000,000.

And now a word as to the cost of living to the people of the United States. It is not disputed that the wage-earners of the United States receive far higher wages than is paid in any other country on the globe.

Mr. OLMSTED. Will the gentleman allow me a question right there?

Mr. BATES. I will yield for a question.

Mr. OLMSTED. The gentleman from Mississippi stated that Tom Johnson had stated that if the tariff was removed he could make rails at $12 a ton and sell at $16 a ton at a profit. I would like to ask my colleague if he knows any way in which the removal of the tariff would enable a manufacturer to make rails at a less cost unless he paid less for the manufacture?

Mr. BATES. It would be absolutely impossible, because from the moment the ore is raised from the ground up in Minnesota

until the time it is sold as a finished product labor is the large ingredient of its cost.

Mr. CLARK of Missouri. Well, now, Mr. Chairman, since the gentleman is called back to the question of steel rails, I would like to ask him a leading question and get him to answer it if he can.

Mr. BATES. I am glad the gentleman put in any qualification.

Mr. CLARK of Missouri. I put it in because I am not certain that the gentleman has the information or anybody else. The question is this: Do our steel-rail manufacturers sell at a loss or a profit when they sell American steel rails at $21 a ton?

Mr. OLMSTED. They don't sell any at that price.

Mr. BATES. Sometimes at a loss. If there is any profit, it is so small that it could not be considered a profit, considering the cost of production and the wear and tear of machinery and all that.

Mr. CLARK of Missouri. The gentleman's colleague [Mr. OLMSTED] says that they don't sell any. I think the gentleman must be a lineal descendant of Doubting Thomas.

Mr. BATES. I do not know where the gentleman from Missouri gets authority to say that they do sell them.

Mr. CLARK of Missouri. James J. Hill ought to be pretty fair evidence on the sale of steel rails.

Mr. GAINES of Tennessee rose.

Mr. BATES. Now, Mr. Chairman, I can not yield further; I have only fifteen minutes remaining.

Mr. CLARK of Missouri. Very well.

Mr. GAINES of Tennessee. The gentleman stated a while ago that a few years ago we exported $29,000,000 worth of steel and this year $135,000,000 worth. I want to ask him if that $135,000,000 was sold in Europe at a loss?

Mr. BATES. I do not suppose that it was.

Mr. GAINES of Tennessee. They claim that the exports were sold at a loss. I was wondering how you could increase the exports so much and sell at a loss and still keep the concerns running.

Mr. BATES. They have sold these exports in competition with the whole world. There is sharp competition in this country as well as abroad. At present the demand for steel products is great, and by making large sales we have in most cases still sold at a fair profit.

We have in this country a higher order of civilization than elsewhere. If, then, the consumers of the United States pay more for the necessaries and comforts of life than they would under a low wage scale, they are simply contributing to the maintenance of that civilization, intelligence, comfort, happiness which makes the people of this country conspicuous among the nations of the world. Whether we pay more for the necessities of life than those in other countries who work for a lower wage, is wholly immaterial. That is not the question. The real question is, Does it pay them to do it?

Tariff laws encourage men with money to open mines, build factories, establish industries, which could not exist were it not for the tariff laws which shield them from foreign competition. This creates a demand for labor. A protective tariff, then, becomes a protection to opportunity. If the people are given opportunity for employment, they will fix their own wage rate. If these opportunities are destroyed, it is impossible to satisfy them. The wants of men are satisfied through the efforts of labor. The main arguments on the other side of this Chamber seem to be based upon the narrow demands of man as an individual, with no reference whatever to his relation to society. It is the doctrine of individualism; the cold, cruel doctrine of the survival of the fittest. It is the doctrine of Cobden, of John Stuart Mill, of David Ricardo, and the gentleman from Mississippi [Mr. WILLIAMS].

John Bright conceded a vital point in the controversy in 1886 when he admitted that the one way by which free competition can be met and home factories preserved is by a reduction of wages. This, then, is the only alternative. Reduce the tariff on competing products, admit freer importations, and then only by reducing wages and degrading labor are our industries to be defended and carried on. The American market is worth more than twice as much to us as all the foreign markets combined even if we could possess those foreign markets exclusively. What would it profit us to tear down our home market and gain the whole world of markets?

The tariff bill that would enable foreign goods to compete freely with our own products ought to be labeled, "A bill to promote the welfare of the people of Leeds, Bristol, and other cities of England and the Continent at the expense of the laboring people of the United States."

The idea that we might sell everything for a good price and buy everything cheap is most fascinating. What does it mean to buy in the cheapest market? It simply means that the American people are to buy their glass, earthen and china ware, cottons, woolens, silks, linens, tools, machinery, hardware, cutlery, iron, steel, and in fact every manufactured article in Europe; that they shall cease entirely buying of home producers, unless our manufacturers will sell these articles cheaper than they can be purchased from any other people of the earth.

It means that we will buy our food and farm products in Canada, the Argentine Republic, or wherever they can be bought at the lowest prices. It means that the purchasers of other countries shall buy where they can get goods the cheapest, hence the purchasers of the world would not come to the United States to buy their manufactured goods or farm products, unless they can buy them cheaper here than in any other country. Instead, then, of selling there we would be reduced to the necessity of selling cheap or not at all, excepting, of course, as we might produce a superior article or something that can not be obtained elsewhere. We could only become sellers by selling for a lower price than anyone else. It means that the cost of production below the rest of the world must necessarily follow. It means the invoking of the law of the "survival of the fittest." It means that those industries that could not stand the struggle should perish. It means that capital, if there is any left from the ruin that would be wrought, must seek other investment or go into hiding and be unprofitable. It means that laborers thrown out of work must find employment in some other industries, but it means also that the other industries must always be those in which the commodities can be produced cheaper than elsewhere. It means that to enable us to sell in the best markets we must undersell all competitors. There would thus ensue an entire revolution in the methods and conduct of business here, and leveling down through every channel to the very lowest line of our competitors. Our habits of life would have to change, our wages cut down 50 per cent or more, our mansions exchanged for hovels. This is what would necessarily flow in the wake of free trade. All goods would be cheap, but how costly when measured by the degredation that would ensue.

It is a principle as old as the hills and everlasting as the unchanging law that when goods are cheapest men are poorest; and the most distressing experiences in this country or in all human history have been when everything was lowest and cheapest when measured in money, but highest and dearest when measured by labor. The best unit of value is what a day's labor will produce. It seems to me we have had full experience of cheap times in this country. Goods were cheap in this country from 1855 to 1860. Yet the farmer could hardly raise enough money to pay his taxes. The wail of President Buchanan, in his message to Congress in 1857, states the case. He said:

> With unsurpassed plenty in all the production and all the elements of natural wealth our manufacturers have suspended, our public works are retarded, our private enterprises of different kinds abandoned, and thousands of useful laborers are thrown out of employment and reduced to want. We have possessed all the elements of material wealth in rich abundance, and yet, notwithstanding all these advantages, our country, in its monetary interests, is in a deplorable condition.

Such a condition of affairs continued until the Morrill protection law of 1861 was enacted. When again the Democracy was intrusted with power, in 1892, 1893, 1894, and 1895, and struck down protective tariff laws, we had cheap goods again in this country. We had 3,000,000 laboring people out of employment, and had hunger and desolation everywhere all over this land. How like the words of his Democratic predecessor were the words of President Cleveland in his annual message to Congress in 1893, after a free-trade Administration had been voted in. He said:

> With plenteous crops, with abundant promise of remunerative production and manufacture, with unusual invitation to safe investment, and with satisfactory assurance of business enterprise, suddenly financial fear and distrust have sprung up on every side, numerous moneyed institutions have suspended, surviving corporations and individuals are content to keep in hand all money they are usually anxious to loan. Loss and failure have involved every branch of business.

This was a little over a year after the people had elected an entire Administration pledged to what the world knows as "free trade."

When did we ever lower the duties in this country that hard times and a depleted Treasury and gold flowing out of the country did not ensue? When were the higher duties ever restored that general prosperity did not follow? When did the Democratic party ever assume power that they did not at once make an assault upon the protective features of the tariff laws? If there is one thing that the school of Bryan, and the school of Cleveland, and in fact all the schools of modern Democracy do agree upon, it is to assail the protective features of the tariff

laws of this country whenever possible. I quote as high Democratic authority as Senator GORMAN when I state that "the last and only complete Democratic victory gained in recent years was won because the candidate stated, 'We will not destroy any industry.'" And on that declaration the campaign of 1892 was waged in the East and Middle West, rather than upon the dangerously worded Chicago platform, in which protective tariff was assailed as unconstitutional, and which platform was soon evoked and, as far as possible, formulated into organic law. Were industries destroyed? Ninety-two articles were transferred from the dutiable to the free list by the Wilson bill, as it came from the Democratic Ways and Means Committee or as it passed the House, among them wool, sugar, coal, iron, and lumber. The farmers were stripped of the protection afforded in the McKinley law. Railroads went into the hands of receivers. Banks closed their doors. The smoke of industry ceased to cloud the sky. Three million laboring people were thrown out of employment. Gold left our shores with every ship. The looms and reels and spindles of Bradford and other English cities worked double forces night and day to supply our people with textile fabrics, while the workingmen of America languished, were being fed at soup houses, and begging for bread.

Our steadily increasing foreign trade for the past nine years has been remarkable. It is desirable that it be extended further to dispose of our increase in surplus products. It can be extended by sensible trade arrangements with other countries, by keeping our manufacturers accurately informed of trade conditions of the world, the state of foreign markets, by fostering and upbuilding the American merchant marine, by building an isthmian canal; but we must not endeavor to build up our foreign trade by sacrificing our home markets, because in seeking markets we want the best markets—the best markets are where the people can sell the most products at good prices and have the money paid for them after they have sold them, and that place is here in America, after practically forty years of protective tariff ascendency. [Loud applause.]

Mr. FOSS. Mr. Chairman, I understand the gentleman in charge of the time on the other side desires us to proceed, and I will yield thirty minutes to the gentleman from California [Mr. KNOWLAND].

Mr. KNOWLAND. Mr. Chairman, in the consideration of the pending naval appropriation bill—which bill I shall support, believing it has received the careful and intelligent consideration of an experienced and well-informed committee—it would seem to be an opportune time to briefly discuss the general policy of shipbuilding at the navy-yards of the Government. I will very frankly declare at the outset that I do not class myself with those who take the extreme view and contend that all Government vessels should be constructed at navy-yards. Such a policy, to my mind, would be as unwise as I deem the present policy to be which assigns to the private shipyards the construction of practically every vessel authorized from year to year by Congress.

I assume the position, which position I shall endeavor to uphold during the course of my remarks, that it is in the line of sound business policy for this Government to thoroughly equip its largest and most important navy-yards for shipbuilding, and for Congress to provide from time to time that a certain number of the new vessels authorized be constructed at Government yards. The result of such a policy would be the retention at these yards of an efficient, skilled, and permanent force of mechanics, and a practical demonstration on the part of the Government that its yards were prepared to satisfactorily construct any vessel authorized by act of Congress. The effect on private contractors would be somewhat analogous to the effect that canals affording facilities for competition by water exercise on railroads in determining rates in certain localities.

I have not a word to say in disparagement of the private shipbuilding plants, which are of importance to our national defense. These vast concerns have been built up as a result of the energy and enterprise of American citizens and have been an important factor in the development of our new Navy, the ships constituting which are equal to those of any nation of the world. But the private shipyards are not, and never have been, without able champions in and out of Congress, and it is safe to conclude that these shipbuilding concerns have received at least fair compensation for all Government work.

We maintain to-day ten navy-yards, located at the following points: Brooklyn, N. Y.; Boston, Mass.; League Island, Pa.; Norfolk, Va.; Portsmouth, N. H.; Pensacola, Fla.; Mare Island, Cal.; Bremerton, Wash.; Charleston, S. C., and Washington, D. C. The Government yards are all advantageously located and several are thoroughly equipped for building the largest vessels, but notwithstanding these favorable conditions let me present some very significant figures demonstrating that the private yards are favored in the building programme and the navy-yards discriminated against. On January 1 of this year there were under construction, in various stages of completion, at the numerous private shipyards the following vessels designed for the Navy: Twelve battle ships, six armored cruisers, three protected cruisers, three scout cruisers, one gunboat, two torpedo boats, and four submarine torpedo boats, the total amount represented in Government contracts held by these private firms aggregating over $80,000,000. In the Government navy-yards there were in course of construction at the same period one battle ship and two training ships, the total amount involved being less than $5,000,000. Let us compare these figures: Thirty-one ships for our new Navy under construction at private yards, and but three ships at navy-yards—over $80,000,000 for private yards and less than five million for the navy-yards of the Government!

Why has the Government adhered to this policy? Prior to 1861 practically all the ships for the Navy were constructed, and satisfactorily, at the Government yards. With the outbreak of the Civil War the exigencies of the times made it impossible for the navy-yards, limited in number and equipment, to meet the tremendous demands suddenly made upon them, the result being that the contract system was created. So strong was the hold gradually obtained by these private contractors, so great an influence have they since wielded, that until very recently it has been impossible to bring about any change of policy. The so-called "political spoils system" was for many years strongly intrenched at the navy-yards, rendering it impossible for the best results to be obtained. These yards furnished employment for innumerable political workers, who were selected irrespective of their fitness for the work to which they were assigned. In many instances foremen totally inexperienced and unqualified were placed over subordinates equally as useless, with the invariable result that the most unsatisfactory work was in many instances turned out, rendering economical construction impossible. The result of this system did much to arouse prejudice against the yards.

Secretary Tracy, of the Navy, declared that the conditions in the yards were "Destructive to the Government service—an ulcer on the naval administration system." In 1891 he issued an order placing all the employees at navy-yards under a system of civil service. Since the issuance of this order the rules have been made more stringent at the yards, and the merit system is gradually being perfected. For skilled and unskilled labor there is a system of registration in charge of a board of labor employment, the most stringent regulations governing the acts of this board. Every applicant must take his turn in the order of his registration, preference being given only to honorably discharged men of the Army and Navy. Political influence absolutely does not avail, as I have found from experience. Every applicant who registers must be a citizen of the United States. He must have a character certificate, signed by a reputable citizen of the applicant's locality, testifying to his character and habits of industry and sobriety. He must also have a trade certificate, signed by the firm or individual for whom he has worked, certifying as to his capacity in said trade. In the employment of foremen, whenever a vacancy occurs, a special board of officers is convened, and a competitive examination held under proper regulations. The result has naturally followed, that the efficiency of the yards has steadily increased. No incapable man is long tolerated. The highest skilled employees are demanded, but to retain such a class of workingmen at the navy-yards the Government must adopt a policy that will insure steady employment.

Whenever an attempt has been made to inaugurate a policy of even limited shipbuilding at Government yards, most formidable opposition has been encountered, some of the arguments advanced against the contemplated policy being most ingenious. Let us consider a few of these objections. It was contended in all seriousness that if an attempt were made to construct one of the modern vessels of warfare at a Government yard the result would be a humiliating failure. Others maintained that, while it might be within the range of possibility that a battle ship could be constructed at a navy-yard, it would consume years of time, and when the ship was finally completed that the particular type of vessel would have become obsolete. A prominent Member of Congress, reputed to be one of the best authorities in all matters pertaining to the Navy, declared with all seriousness that he never expected to live long enough to see a battle ship completed at a navy-yard. I trust that the gentleman has recently visited the New York Navy-Yard where the battle ship *Connecticut* is nearing completion.

In some quarters it was argued that the cost would be fully 50 per cent greater for every vessel constructed at a Government yard. It was declared by a prominent naval constructor, in a hearing before the House Committee on Naval Affairs, that the cost of material purchased by the Government would be at least 10 per cent higher than if purchased by private contractors; that we could not go into the open market and buy material, which would place us at a great disadvantage. This very constructor, in his annual report for 1902, page 573, makes the following significant admission as to the cost of material purchased by the Government for the *Connecticut*, refuting absolutely his former contention that the Government could not buy as advantageously as private contractors:

The provisions of specifications—

states the constructor—

and the terms of the contract for the material (steel) have been made in such a manner as to absolutely insure the obtaining of this material at as low a price as that at which it will be supplied to private shipbuilders for the same class of vessels.

The general subject of shipbuilding in Government yards has received particular attention throughout the United States during the past two years owing to the so-called "race" between the battle ships *Connecticut* and *Louisiana*. These vessels are exact duplicates. The *Connecticut* is building at the New York Navy-Yard, while the *Louisiana* is under construction at the plant of the Newport News Shipbuilding Company. The records of the Navy Department lead the Chief Constructor to estimate that the *Connecticut* will cost approximately 10 or 15 per cent more than the *Louisiana*.

These figures I will not attempt to dispute, but throw out the suggestion that an accurate and fair comparison can not be made until both battle ships are in commission. I want the House to bear in mind that in many instances private contractors have realized their chief profit in the building of Government vessels from allowances for "extras," in which category are included changes in plans, bonuses, trial trips, etc. Bonuses, however, are no longer allowed. I wish to call attention to the Department's published statement, issued on February 9 of this year, showing that the cost of alterations in the plans and specifications of the *Louisiana* at that time had exceeded those on the *Connecticut* by $21,000. The result of the contest up to this time, in my opinion, vindicates the policy of limited shipbuilding at Government yards, and I will enumerate my reasons for this deduction.

I maintain that the Government is to be congratulated upon the outcome of the construction of this modern battle ship at a navy-yard when we consider the first experience of many of the private shipbuilding plants. Let us cite the case of the Newport News Shipbuilding Company, now building the *Louisiana*, which firm lost heavily on the first two battle ships contracted for—the *Kearsarge* and *Kentucky*—but the experience gained later proved of great value. The cruiser *Charleston* was the first Government vessel constructed by the Union Iron Works, of San Francisco, and their entire profit consisted of experience. In the construction of the first four vessels of the new Navy—the cruisers *Chicago*, *Boston*, *Atlanta*, and *Dolphin*—John Roach & Sons, of Chester, Pa., were forced into bankruptcy, and their *experience* proved of little value in meeting the demands of creditors. The Richmond Locomotive Works tried its hand at shipbuilding, contracting for the cruiser *Galveston* and two torpedo-boat destroyers, resulting in the failure of that firm. These are but a few instances. There are many others.

The result of the contest is even more remarkable when we recall several facts that must not be lost sight of in the building of these two battle ships. First, eight hours constitute a day's labor in all Government yards, and in addition a certain number of holidays are allowed. In practically all of the private yards, the Union Iron Works, of San Francisco, being excepted, the men work nine and ten hours, with practically no holidays. Is there a Member of this House who would repeal the eight-hour law now applicable to all Government employees? While on this subject I will predict that the time is not far distant when eight hours will constitute a day's labor throughout the United States. The drift is irresistibly in that direction, combat the sentiment as you may. Opposition will not avail, and the eight-hour day will eventually triumph. Secondly, in the case of the Newport News Shipbuilding Company, that plant was thoroughly equipped. Admiral Capps, in his testimony before the House Committee on Naval Affairs during the Fifty-eighth Congress, second session, in this very connection said:

It must be borne in mind that the Newport News yard had the advantage of a completely equipped plant. The building slip was already prepared and overhead crane facilities and other appliances were at hand, and their mechanics had had greater experience in doing this class of work.

The consideration of time is fully as important as the question of cost. Since the construction of the new Navy began, twenty-three years ago, no Government vessel has been constructed as rapidly as the *Connecticut*. In this connection I will quote from the last annual report (1905) of Admiral Capps, Chief of the Bureau of Construction and Repair. He says:

Work on the *Connecticut* is progressing very satisfactorily, and but for the delays in the delivery of armor it is more than probable that this vessel would have been the first battle ship to have been completed within contract time since the construction of the Navy began, in 1883.

While the Newport News Shipbuilding Company was rushing work on the *Louisiana* to keep pace with the *Connecticut*, the battle ship *Virginia*, building in this yard, was two years overdue, and has only been turned over within the past few weeks. Private yards have been exasperatingly slow in the completion of Government work. The delays have been scandalous, and while a penalty of $300 per day attached to the contracts, it is universally admitted by naval officials that these penalties were never enforced. So serious did the matter become that Secretary of the Navy Moody, in his annual report for 1902, page 5, called the matter to the attention of the country in the following words:

The general progress of work upon these vessels, particularly those of the larger class, has not been found to be satisfactory. The battle ships were, on the 30th of June, 1902, from ten to twenty-nine months behind contract time, the armored cruisers from four to thirteen months, the protected cruisers from six to eighteen months, while the monitors were from sixteen to nineteen months in arrears.

Speaking of the causes for delay, it has been repeatedly charged that some of the private contractors would temporarily neglect Government contracts for more profitable repair work brought into the yards, the Government work being reserved for slack times.

Secretary Moody, however, was more charitable toward the private contractors, advancing the following reasons for delay:

Delays are due to a lack of training and experience in the technical staff of contractors undertaking for the first time to build naval vessels. This difficulty—

Mark carefully his words—

is naturally disappearing as the several shipbuilding firms successfully entering the field equip themselves with a trained force. A trained force must be developed.

What stronger argument than this could be advanced for the thorough equipment of the navy-yards for shipbuilding? The cost of construction naturally decreases with the increase of efficiency of the force. In his report submitted in 1904, Admiral Capps spoke of the condition of the New York yard as follows:

It should be borne in mind that the facilities for doing such work (shipbuilding) at the navy-yard, New York, although now greater than those obtaining at any other navy-yard, were in the beginning quite inadequate.

It is universally admitted by all well-informed naval constructors that the amounts expended for repairs would be materially decreased with an even limited policy of shipbuilding at the navy-yards. A full equipment, such as necessary for shipbuilding, increases the productive value of unskilled labor. Many of the running expenses of a yard would not be materially increased if construction were carried on in conjunction with repair work. Maintenance of plant, clerk hire, and other items might be cited. Both new and repair work can proceed in an economical and rapid manner. Even admitting that the *Connecticut* cost 10 or 15 per cent more by reason of being constructed in a Government yard, is not the training received by officers and men worth the difference to the nation, particularly in case of war? I maintain that the Government will secure better ships and that the cost for future repairs will be less. The extra 15 per cent goes into the pockets of the workingman and not into the coffers of the trust.

Before touching upon the policy of other nations in dealing with this question I desire to quote briefly from some high naval authorities. Rear-Admiral Philip Hichborn, retired, has always been a strong advocate of limited shipbuilding in navy-yards. No individual has been more intimately associated with the development of the new Navy. His experience has extended over a period of fifty years, having served as apprentice, master shipwright, assistant naval constructor, naval constructor, and Chief of the Bureau of Construction and Repair. While serving in the latter capacity Admiral Hichborn, in 1900, in his annual report, treated the subject as follows:

Much has been said both in favor of and against the building of vessels in the navy-yards. The progress made in the improvement of yard plants and the ever-increasing need for a permanent skilled force ready for and capable of at all times taking up repairs of any character which the growth in "matériel" of the Navy entails, makes it desirable that the question should be given careful consideration. There is at the present time, in view of the prosperous condition of the shipbuilding industry and the number of naval vessels building and appropriated for, sufficient work to permit the assignment of a portion of the

building work to the Government yards without there being a question of the withdrawal or withholding of necessary support and assistance, through work given out, to a private industry, the maintenance of which in a high state of efficiency is unquestionably of national importance.

These conditions make it possible to eliminate from the discussion any questions of policy except such as affect economy and efficiency. It has been the history of all the iron and steel navies in existence to-day that the building of the vessels was at first entirely confided to private industry, and that the existence of the nucleus of a steel fleet made it necessary that the governments who were their owners should themselves provide for repairing these vessels; and that, having provided the necessary plant for this purpose, the provision for maintenance of the equally necessary though vastly more difficult thing to attain, viz, efficient working organization and adequate efficient personnel, forced them to undertake in their navy-yards a portion of the new building work. The execution of a certain amount of building work at the chief Government yards is necessary to the maintenance of such navy-yard staffs as a complete and efficient naval organization requires; and that, whatever disadvantages such a course entails, they are more than compensated for in the end. It is believed that we have reached that stage in a naval development—still considerably behind our national development—which forces upon us serious consideration of this step which other naval powers have found necessary and expedient. At the outset the disadvantages to be labored under will be considerable. Time and experience will do much toward the alleviation or possibly the entire removal of many of these. While, under existing conditions, in the case of the first vessels built in our navy-yards it may be expected that the cost will not be greatly different from—may even be somewhat greater than for—the same work executed by contract in the private shipyards, the Bureau believes that such a course once entered upon would demonstrate its desirability and practicability in an increased efficiency and economy in naval administration, regarded as a whole, without interference with a judicious policy of such Government encouragement of the shipbuilding industry as will keep the greatest number of establishments in a position to undertake and execute promptly any naval work which may be required.

Admiral Capps, chief of the Bureau of Construction and Repair, in his annual report for 1904, says upon this subject:

One of the principal objects to be obtained in the building of vessels in Government yards is the maintenance of the organization of the yard and the provision of suitable work for experienced mechanics during the absence of the fleet.

To this I will add the testimony of Secretary of the Navy Morton, contained in his annual report for 1904, in which he speaks of the advantages of thoroughly equipped yards:

Doubtless the fact that there is at command at navy-yards the necessary plant and a force of men trained in such work will have a tendency to keep down prices, and the equipment of Government yards for building war ships will have its advantage in time of national emergency.

Nearly all the great nations of the world have given the subject of shipbuilding in Government yards most careful consideration. And what has been the result? Practically all the great naval powers are building to-day a portion of their ships in Government yards. Let us first cite the case of England. Of the six battle ships now building four are under construction in Government yards, including the *Dreadnaught*.

My figures are from the Office of Naval Intelligence, and were obtained last week. Of the ten armored cruisers under construction, Government yards are building four and private contractors six. The question naturally suggests itself as to the comparative cost, and I am able to answer this query by quoting the highest possible authority. In the parliamentary debates of last year (1905), volume 148, page 597, when the naval budget was under discussion, the question was asked of the secretary of the Admiralty, Hon. E. G. Pretyman, as to whether private yards could build as economically as Government yards. I might explain that in England the Admiralty board has the general management of maritime affairs and of all matters relating to the royal navy. In reply to the question, Mr. Pretyman said that in his opinion, after considering the question of cost very carefully, there was little difference between private and Government yards. "A good private yard," he declared, "would build at about the same cost as Government dock yards," it being inferred from this statement that the advantage, if any, was with the Government yards. A further inquiry elicited the information from him that as high a wage was paid at the Government dock yards as by private builders. And right here I want to quote from a work entitled the "British Navy," by a highly competent critic, A. Stenzel, captain of the imperial German navy, retired. On page 92 he says, speaking of England's policy of building in Government dock yards:

Previously it was thought that the royal yards worked slowly and expensively; the numerous and to some extent serious shortcomings in their organization and workings may have justified this opinion; but of late years the contrary has been proved by actual experience. For example, the mighty battle ship the *Royal Sovereign*, of more than 14,000 tons displacement, was built in Portsmouth with remarkable speed; she was finished, stood all the necessary trials satisfactorily, and was put in commission as fully prepared for war and added to the channel squadron within two years and eight months from the date when the first keel-plate was laid down. The still larger battle ship, the *Magnificent*, of 14,900 tons displacement, was constructed at Chatham with such speed that she was floated out of the dry dock exactly in one year, and put in commission twenty months after the first keel-plate was laid down, and it is intended to produce the newest battleships of equal size in similarly short periods of time. These achievements stand unmatched, and the large private yards, that have been intrusted with the building of sister ships can not keep pace with the work of the royal dock yards. Moreover, the cost of production in the royal yards is somewhat less than in the private yards. The battle ship *Empress of India*, of 14,150 tons displacement, built in a royal yard, cost a trifle over £861,000; the *Resolution*, also of 14,150 tons displacement, built in a private yard, cost nearly £883,120, a difference of upward of £22,000 in favor of the royal yard.

In Germany the Government is building in its yards one of the six battle ships under construction. Of the six small cruisers, the Government is building four and private contractors but two. France has under construction nine battle ships, three of which are being built in Government yards. Of the armored cruisers, the Government is building four and private contractors one. Thirty-two submarines are under construction in Government yards.

Now we come to the new great naval power in the Orient, awakened Japan. This nation is quick to take advantage of the experience gained by other great powers. Her naval officers have given the subject of shipbuilding the most careful study, visiting every great nation. What has been the result? Japan has to-day under construction four battle ships. Two are being built at Government yards. She has under way five armored cruisers, and the entire five at Government yards. Fourteen of the twenty-four torpedo-boat destroyers the Government is building.

I shall insert in the RECORD the full statement as furnished me through the courtesy of the efficient Office of Naval Intelligence, under charge of Captain Rodgers:

OFFICE OF NAVAL INTELLIGENCE,
April 28, 1906.

List of ships building at Government and private shipbuilding yards.

ENGLAND.

Name.	Class.	Port.	Government or private.
Dreadnaught	Battle ship	Portsmouth	Government.
Lord Nelson	do	Barrow (Palmer)	Private.
Agamemnon	do	Glasgow (Beardmore).	Do.
Africa	do	Chatham	Government.
Britannia	do	Portsmouth	Do.
Hibernia	do	Devonport	Do.
Minotaur	Armored cruiser	do	Do.
Shannon	do	Chatham	Do.
Defence	do	Pembroke	Do.
Warrior	do	do	Do.
Cochrane	do	Glasgow	Private.
Natal	do	Barrow	Do.
Achilles	do	Newcastle	Do.
Invincible	do	do	Do.
"A"	do	Clydebank	Do.
"B"	do	Glasgow	Do.

Torpedo-boats destroyers building at private yards: Six at Thornycroft & Co., two at Yarrow & Co., six at White & Co., two at Armstrong & Co., one at Connell, Laird & Co., one at Hawthorne-Leslie Company. Ten submarines at Barrow.

GERMANY.

Name.	Class.	Port.	Government or private.
Lothringen	Battle ship	Dantzic	Private.
Deutschland	do	Kiel	Do.
Pommern	do	Stettin	Do.
Hanover	do	Dantzic	Government.
Q	do	Kiel	Private.
R	do	Dantzic	Do.
Ersatz Bayern	do		
Ersatz Aachsen			
C	Armored cruiser	Bremen	Do.
Scharnhorst	do	Hamburg	Do.
E	do		
Leipzig	Small cruiser	Bremen	Do.
Danzig	do	Dantzic	Government.
Konigsberg	do	Kiel	Do.
Ersatz Wacht	do	Stettin	Private.
Ersatz Blitz	do	Kiel	Government.
O	do	Dantzic	Do.

Six torpedo-boat destroyers and one submarine building at private yards at Kiel.

FRANCE.

Name.	Class.	Port.	Government or private.
République	Battle ship	Brest	Government.
Démocratie	do	do	Do.
Patrie	do	La Seyne	Private.
Justice	do	do	Do.
Verité	do	Bordeaux	Do.
Liberte	do	St. Nozaire	Do.
A 15 and A 18	do	Brest	Government.
A 16 and A 19	do	La Seyne	Private.
A 17 and A 20	do	do	Do.
Ernest Rénan	Armored cruiser	St. Nozaire	Do.
Jules Michelet	do	Lorient	Government.
Victor Hugo	do	do	Do.
Edgar Quinet	do	Brest	Do.
Waldeck Rousseau	do	Lorient	Do.

Twenty-three torpedo-boat destroyers building; 16 in private yards and 7 in Government yards. Seventy-five torpedo boats building at private yards and 32 submarines at Government yards.

List of ships building at Government and private shipbuilding yards—Continued.

JAPAN.

Name.	Class.	Port.	Government or private.
Kashima	Battle ship	Elswick, England	Private.
Katori	do	Vickers, England	Do.
Satsuma	do	Yokosuka, Japan	Government.
Aki	do	Kure, Japan	Do.
Ikoma	Armored cruiser	do	Do.
Tsukuba	do	do	Do.
Ibuki	do	do	Do.
Kurama	do	Yokosuka, Japan	Do.
Tone	Protected cruiser	Sasebo	Do.

Twenty-four torpedo-boat destroyers building, fourteen in Government yards and ten in private yards.

In the matter of the two-fleet colliers mentioned in the pending bill, I wish to congratulate the members of the Committee on Naval Affairs for providing an amount sufficient to allow the will of Congress as twice expressed, to be carried out.

The naval appropriation bill for 1904, as it passed the House of Representatives, provided for the building of two colliers with a speed of sixteen knots. When the bill reached the Senate, Senator Perkins, of California, ranking member of the Committee on Naval Affairs, amended the particular section of the bill, stipulating that these colliers should be constructed at navy-yards, one on the Pacific and the other on the Atlantic coast, the New York and Mare Island, California, navy-yards being designated. The Senate amendment was concurred in by the House after a spirited contest, the conferees having failed to agree. A year passed and work was not begun. When Congres convened, the then Secretary of the Navy requested that he be given authority to construct these colliers at private shipyards, claiming that the Mare Island Navy-Yard was not equipped. Acting on the suggestion of the Secretary, the Committee on Naval Affairs attempted, in the naval appropriation bill, to rescind the former action of Congress, but the paragraph in question was ruled out on a point of order made by Representative Bell, of California, it being rightfully held that an attempt was being made to change existing law. I then offered an amendment on the floor of the House appropriating $175,000 to provide the requisite equipment for the Mare Island Navy-Yard, which amendment was adopted by a vote of nearly two to one.

Another year rolled around and still work did not commence. When the present Congress convened, we were told that the delay had been caused owing to the fact that it was mandatory that these colliers be constructed at navy-yards, and as a consequence would cost more than the amount originally appropriated. An investigation brought out the following facts: It was found that since the original estimates were submitted additions and changes were made in the plans, adding greatly to the original cost. As an instance, a double bottom was added for protection, the theory being that the colliers would be subject to attack. One bureau wanted provision made for an emergency repair shop, and this was granted. Another bureau wanted the colliers fitted to carry stores, oils, and other supplies, while still another demand was made that these vessels be serviceable as transports, and provisions were made for the accommodation of two commanding officers and for eighteen state rooms and accessories, these requests all being granted and all adding to the original cost, this additional cost being charged to navy-yard construction.

These facts are practically admitted by the Chief of the Bureau of Construction and Repair, Admiral Capps, in his testimony before the House Committee on Naval Affairs, Fifty-eighth Congress, third session. In explanation of the additional amount asked for he said it was necessary, "since the requirements of the various departments have made it necessary to make provision for carrying ammunition and stores and a very large crew." During the same hearing he again said:

Since the original estimate was submitted it has been necessary to make provision for the carrying of ammunition, stores, and a very much larger number of men *than was first contemplated.*

I recognize that the additions made were necessary and will add much to the serviceability of the colliers, but I do take exception to the statement that the additional cost can be wholly charged to the fact that Congress made it mandatory that these colliers be built at navy-yards. The price of material used in ship construction has increased since the original estimates were made over two years ago, as I can prove by documentary evidence.

Mr. FITZGERALD. Mr. Chairman, I would ask the gentleman if it is not a fact that either in the report of the Secretary of the Navy or in the report of the Chief Constructor for the last fiscal year it is admitted that by reason of the changes in the plans it would be impossible to build these colliers even by contract at the original price?

Mr. KNOWLAND. Mr. Chairman, I don't recall having seen such a statement in the report of either official, but the Secretary of the Navy admitted to me and to Senators Perkins and Flint of my State, when we called upon him to inquire why work had not commenced on these colliers, that he did not think private contractors would now build them for the amount originally appropriated.

Mr. FITZGERALD. The gentleman will find it in one of the reports, and I will put it in the RECORD.

Mr. KNOWLAND. Mr. Chairman, I am in favor of a great navy, and have always maintained that this mighty nation can not afford to be parsimonious in providing the best and most modern ships. For my part, I would willingly cast my vote for two great battle ships instead of one, as the bill provides. Let us not economize on the Navy, for such economy is false and might prove disastrous.

In conclusion, I wish to remind this House that the American people, actuated by the highest patriotic motives, have voted millions, through their Representatives in Congress, for a great navy—a navy that has never failed to "make good" when put to the test. But the people have a right to demand that the navy-yards, owned and maintained by the Government, be accorded a "square deal" in the building programme. [Prolonged applause.]

Mr. MEYER. Mr. Chairman, I yield thirty minutes to the gentleman from Mississippi [Mr. HUMPHREYS].

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I want to call the attention of this House to some things that the President of the United States said in a message he sent to this House a few days ago in reference to the decision of Judge Humphrey in the packing-house cases at Chicago, not because there is anything new in what the President said, not because he announced any principles that are strange or any doctrine not heretofore announced, but rather for the contrary reason, because he repeated in that message some things that he has said on several notable occasions in the past. I will read the language that I wish to refer to, language which I think every lawyer in this House will indorse:

Our system of criminal jurisprudence has descended to us from a period when the danger was lest the accused should not have his rights adequately preserved, and it is admirably framed to meet this danger, but at present the danger is just the reverse; that is, the danger nowadays is not that the innocent man will be convicted of crime, but that the guilty man will go scot-free.

Mr. Chairman, I want to call the attention of the House to that language and some other language similar to it that the President has used to call the attention of the country and of the Members of the Republican side of this Chamber to the fact that the Republican party not only ignores what the President says, but fails and refuses utterly to follow in his good lead. He made similar statements to this in his speech in Little Rock last fall, but I will not stop to read that now. When we met last December he called the attention of Congress to this same situation, and in his annual message used these words:

In my last message I asked the attention of Congress to the urgent need of action to make our criminal law more effective, and I most earnestly request that you pay heed to the report of the Attorney-General on this subject.

I desire now to suggest that the Republican majority of this House did not pay heed to the suggestions of either the Attorney-General or of the President of the United States. He continues:

Centuries ago it was especially needful to throw every safeguard around the accused. The danger then was lest he should be wronged by the State. The danger is now exactly the reverse. Our laws and customs tell immensely in favor of the criminal and against the interests of the public he has wronged. Some antiquated and outworn rules which once safeguarded the threatened rights of private citizens now merely work harm to the general body politic. The criminal law of the United States stands in urgent need of revision.

The President did not stop there, Mr. Chairman. He went further. He did not stop with merely this general charge, but he specified and filed a bill of particulars, and further on in his message he says this:

It is gratifying to note that the States and municipalities of the West, which have most at stake in the welfare of the Indians, are taking up this subject and are trying to supply, in a measure, at least, the abdication of its trusteeship forced upon the Government. Nevertheless, I would urgently press upon the attention of the Congress the question whether some amendment of the internal-revenue laws might not be of aid in prosecuting those malefactors known in the Indian country as "bootleggers," who are engaged at once in defrauding the United States Treasury of taxes and, what is far more important, in debauching the Indians by carrying liquors illicitly into Territories still completely under Federal jurisdiction.

I wish to call the attention of gentlemen on the other side of this Chamber particularly to those last two or three lines—

those gentlemen who believe that because we get revenue from the issuance of these internal-revenue licenses nothing ought to interfere, even the good of the citizens or the good of the States or the due administration of the criminal law. I desire to show in that particular how far the Republican party has fallen short. You passed an Indian appropriation bill a few weeks ago, as you did in the last two Congresses since the President first sent this message, each bill carrying an appropriation of $10,000 to assist in enforcing the law in the Indian Territory against the illicit sale of liquors, and during all this time the internal-revenue collector had in his possession evidence that would have convicted the men who are engaged in this illicit sale, and he refused to go into court and give that testimony and refused to permit the courts of the Territory or of the States to have the information which he has; and yet this bill, pending here, as it has now for three winters in the Republican House, can not get a vote, can not get consideration on this floor.

You have voted, since the President sent this message in, $30,000 to support the law which the internal-revenue collector refuses to permit you to enforce, and then sends in his annual report to this House stating that 160 men have what we loosely call internal-revenue licenses in the Indian Territory. In other words, 160 men have paid taxes in the Indian Territory to sell as retail liquor dealers and as retail dealers in malt liquors, and when the effort is made to prosecute and bring them to justice, when the internal-revenue collector is summoned to testify that they have paid these taxes, he declines to testify, and declines to let the officers have a copy of his books. I introduced a bill in the first session of the Fifty-eighth Congress requiring him to do that, and I have been urging it on this floor and off this floor ever since, but I have utterly failed so far to get it considered here. Now, gentlemen, you have come in here, a great majority of you have been dragged into this House of Representatives, holding on to Theodore Roosevelt's coat tail. That is the way you got the majority you have over there now [applause on the Democratic side], and yet you utterly decline to accept his good advice when every Democrat on this side is ready to go with you and put that law on the books. After two years I finally got the matter before the Committee on Ways and Means.

Mr. PAYNE. Does the gentleman think he can get his colleague from Mississippi to consent to unanimous consent to take up the bill in which the gentleman is so much interested?

Mr. HUMPHREYS of Mississippi. Yes, sir; my colleague did not object when I asked unanimous consent, but it was a Republican on that side of the House who objected. [Applause on the Democratic side.]

Mr. PAYNE. Do you believe you can get him to do it now?

Mr. HUMPHREYS of Mississippi. After the Republicans objected to unanimous consent to consider the bill I offered it as an amendment to the legislative bill when the appropriation was made to pay these internal-revenue collectors, and a Republican made the point of order against it there and declined to let us vote on it. After that I offered it as an amendment again. Now, think of it. I offered it as an amendment the other day to the bill providing for the collection of internal revenue in Porto Rico, and the gentleman from Connecticut [Mr. HILL] was guilty of the exquisite cruelty of making the point of order against it when the gentleman from Maine [Mr. LITTLEFIELD] was in the chair, and thereby made him its unwilling executioner. [Laughter and applause.]

The Ways and Means Committee finally, at my urgent request, instructed the gentleman from Pennsylvania [Mr. DALZELL] to call this bill up under suspension of the rules, and so let us have a vote upon it. I ask the distinguished chairman of the Committee on Ways and Means if he knows why that has not been done?

Mr. PAYNE. I did not hear the gentleman.

Mr. HUMPHREYS of Mississippi. Why has not the gentleman from Pennsylvania asked to suspend the rules of this House and pass this bill in pursuance of the instructions of your committee?

Mr. PAYNE. I do not remember whether they instructed him or not.

Mr. HUMPHREYS of Mississippi. They did. I will refresh your memory.

Mr. PAYNE. I do not know whether they did or not.

Mr. HUMPHREYS of Mississippi. I will tell you why he did not; it was because he could not get the consent of the Speaker of this Republican House. He asked the Speaker for recognition to move to suspend, in accordance with your instructions, but he refused to recognize him for that purpose.

Mr. PAYNE. I am inclined to think they did instruct him.

Mr. HUMPHREYS of Mississippi. Well, I will state this: The gentleman from Pennsylvania [Mr. DALZELL] told me that they did, and a number of other gentlemen told me, and my friend from Alabama [Mr. UNDERWOOD], a member of the committee by my side, says it is a fact, and the reason I have just given is why we can not get the matter before the House. The gentleman from Pennsylvania did ask consent. He asked the Speaker to let us take it up under suspension of the rules, where it would take a two-thirds majority of this House to pass it, but even under these hard conditions we can not get it considered. You would rather spend $30,000 even in a vain and fruitless effort to enforce the law than to pass this bill, that will not only apply to the Indian Territory, but will apply to all the other States and all the other territory of these United States.

Mr. PALMER. Mr. Chairman—

The CHAIRMAN. Does the gentleman yield to the gentleman from Pennsylvania?

Mr. HUMPHREYS of Mississippi. Certainly.

Mr. PALMER. Why did not the courts make these people testify and put them in jail if they did not testify?

Mr. HUMPHREYS of Mississippi. The courts did that very thing, and a writ of habeas corpus was sued out and carried to the Supreme Court of the United States and there they released the man and said the order of the Secretary of the Treasury, issued through the Commissioner of Internal Revenue, was a reasonable regulation, and that the collector could not be made to testify as long as this regulation stood on the books. The case is reported in 124 Federal Reports and 177 United States.

Mr. UNDERWOOD. They held that unless there was additional legislation by Congress.

Mr. HUMPHREYS of Mississippi. Unless there was additional legislation by Congress; and that is what we are trying to get. The Democrats passed a revenue law once. That was a long time ago, but they did it.

Mr. PALMER. And it will be a long time before they pass another.

Mr. HUMPHREYS of Mississippi. I do not know how long it will be before they pass another, but when they pass another I will tell you what it is going to be like. It is going to have this proviso in the internal-revenue law. These receipts are called "taxes" now, and not "licenses," but they used to be called "licenses." They were called "licenses" under the first revenue act of 1794 and until the act of 1864. Then they changed the reading so as to make it "special-tax receipt" instead of "license." Now, in 1813 the law read, when it imposed this tax of $25 on the retail liquor dealers and retail dealers in malt liquors:

Provided always, That no license shall be granted to any person to sell wines, distilled spirituous liquors, or merchandise as aforesaid who is prohibited to sell the same by any State.

Now, that is good States-rights doctrine—it is good common, honest, law-loving doctrine.

Now, Mr. Chairman, I asked this concession of time simply for the purpose of calling the attention of the country to the fact that this side of the House is willing now, as it always has been willing, to follow the President whenever he wanted better laws enacted or when he wanted laws already enacted executed better; and the reason that this rule of the Secretary of the Treasury has not been abrogated and set aside by legislation is because this House can not get an opportunity to vote on it.

Mr. NORRIS. Will the gentleman permit a question?

Mr. HUMPHREYS of Mississippi. Certainly.

Mr. NORRIS. I want to say before I ask the question that I am heartily in favor of the gentleman's bill, as I understand it, but I want to ask when that law which he said was passed by the Democratic party was in force?

Mr. HUMPHREYS of Mississippi. In 1813.

Mr. NORRIS. Is that the last Democratic measure on the subject?

Mr. HUMPHREYS of Mississippi. Yes, sir; that is the last one on the subject up to date.

Mr. NORRIS. You were in power and full strength at one time since that; why did you not reenact it?

Mr. JONES of Washington. The gentleman was not in Congress then.

Mr. HUMPHREYS of Mississippi. I was going to make the reply that my friend from Washington [Mr. JONES] suggests. Unfortunately for the country, I was not in Congress at that time.

Mr. NORRIS. I hope, then, that the gentleman will remain in Congress when the next Democratic machine gets into control, even if it is a hundred years from now.

Mr. HUMPHREYS of Mississippi. I thank my friend and assure him that I am willing to make any further sacrifice that my people may demand of me. [Laughter.] The gentleman is

in favor of this bill. All that side of the House that I have heard express themselves say that they are in favor of it. There are two gentlemen on the Committee on Ways and Means that reported this bill, Republicans, who are members of the Committee on Rules. Now, if those two gentlemen will vote with either one of the Democratic members of the Committee on Rules, we can get this bill considered. The trouble is——

Mr. NORRIS. Will the gentleman favor the bringing in of a rule?

Mr. HUMPHREYS of Mississippi. I will—to consider this bill.

Mr. NORRIS. From a Democratic standpoint?

Mr. HUMPHREYS of Mississippi. From any standpoint.

Mr. NORRIS. Would the gentleman want to be subjected to that?

Mr. HUMPHREYS of Mississippi. Yes, sir; I am in favor of bringing in a rule that would permit us to consider this bill, because it is a bill in the interest of decent and orderly government.

Mr. NORRIS. I think so, too, but then, as a Democrat, I should not think the gentleman would want to be forced.

Mr. HUMPHREYS of Mississippi. That side of the House thinks so. It favors this bill exactly as the little girl's mother favored her going in swimming, provided she would hang her clothes on a hickory limb and not go near the water. Your side of the House has hung this bill up on a hickory limb and I am trying my best to get you to let us take it near the water, and you will not consent.

Mr. NORRIS. The first thing you had to do was to get it through the Republican Ways and Means Committee.

Mr. HUMPHREYS of Mississippi. I got the mother's consent.

Mr. NORRIS. You have got the mother's consent?

Mr. HUMPHREYS of Mississippi. I got the mother's consent and also the injunction not to go near the water. Now put me near the water. [Laughter.]

Mr. NORRIS. But the injunction did not come from the mother.

Mr. HUMPHREYS of Mississippi. Now, Mr. Chairman, I do not believe I care to say anything further on this subject. But I want to call the attention of the country to the fact that here is a bill that all the law-loving people of this country want enacted into law and you will not enact it.

This side of the House is practically unanimous—95 per cent will vote for it if you give us an opportunity to vote, and you will not do it; and you will force the advocates of this bill in this branch of the legislature, the popular branch, the branch that is forced to go to the people every two years, because we are supposed to represent the people more closely than any other branch of the Government; you are forcing us to go to the other end of this Capitol and have this legislation tacked on some bill there as an amendment in order to get a vote here; and I say that is humiliating and it ought not to be done, and your side of the House, mind you—and do not let that get out of your minds, because I do not intend to let it get out of the mind of the country if I can help it—your side of the House is responsible for it.

Mr. WILLIAMS. Will my colleague allow me to ask him a question before he takes his seat?

Mr. HUMPHREYS of Mississippi. Certainly.

Mr. WILLIAMS. Is it not true, and has the gentleman stated to the House the regulation of the Treasury which prevents the use of these certificates of receipt——

Mr. HUMPHREYS of Mississippi. Yes.

Mr. WILLIAMS (continuing). Of those who want to sell whisky from being used as evidence of the fact before the State courts. Has the gentleman stated that?

Mr. HUMPHREYS of Mississippi. I have. They absolutely forbid it. They have issued a regulation here not only that the collector shall not testify, but he can not give a copy of the record; and there is no reason on the face of the earth that can be given for that being the law. The President of the United States is not exempt from the process of the courts, and no other man except the collector of internal revenue, who is hedged about by this sort of divinity that relieves him from duties that are imposed on every other citizen.

Mr. WILLIAMS. In other words, this is the only place where the Federal Government undertakes to suppress testimony required in a State court.

Mr. HUMPHREYS of Mississippi. It is the only place I know of.

Mr. FOSTER of Vermont. This evidence is not really suppressed, is it?

Mr. HUMPHREYS of Mississippi. It is absolutely suppressed.

Mr. FOSTER of Vermont. Are not these internal-revenue collectors required to keep a public list of the persons who pay this internal-revenue-tax——

Mr. HUMPHREYS of Mississippi. The gentleman's question——

Mr. FOSTER of Vermont. I have not got through with my question. Is it not true that this list of these taxpayers is open to inspection by the public, and is it not a fact that therefore any person who is interested in the prosecution of any case in the district may go and inspect this list and make a verified copy which is absolute evidence of the facts set forth in the list?

Mr. HUMPHREYS of Mississippi. No. All the facts the gentleman suggests are facts, but the law he suggests is not the law. This officer is required to make a list, an alphabetical list, of all who pay taxes, and post it up where it can be seen, but it is not the law, and it can not be the law, that any man can go there and see John Smith's name is on there, and then go into court and testify against John Smith, because even if the State constitution did not prevent that the Constitution of the United States says that a man charged with crime shall be confronted with the witnesses against him, and it is not a confrontation that any court will allow for any man to say "I saw the list posted on the wall and on it I saw John Smith's name."

Mr. WILLIAMS. The only evidence is a certified official copy.

Mr. HUMPHREYS of Mississippi. If you will have an officially certified copy of this list made, and have the official custodian of the original put his official signature to it, then it becomes evidence in any court, and that is what this bill requires.

Mr. FOSTER of Vermont. Mr. Chairman, I can not quite believe that the gentleman means to state that a person can not go and make what is known as a verified copy, and can not take that into court and swear to it.

Mr. JOHNSON. Who would verify it?

Mr. FOSTER of Vermont. Of course the courts in my State may not be up-to-date, but I know it is done there, and persons are convicted upon that kind of testimony. The gentleman probably knows what a verified statement is.

Mr. HUMPREYS of Mississippi. Yes.

Mr. FOSTER of Vermont. We have a sworn copy—that is, a copy made and sworn to by the officer who has the document in charge. In addition to that we have what is known as a "verified" copy—that is, a man goes and inspects the document, makes a copy of it, verifies it as a copy, and then he can go into court and swear that that is a verified copy of the original, and then that document is evidence in court.

Mr. BURTON of Delaware. Evidence of what?

Mr. FOSTER of Vermont. Evidence of the facts contained in the original document. We do that in my State.

Mr. WALDO. Not in a criminal case.

Mr. FOSTER of Vermont. In criminal cases, under our provision of law.

Mr. WILLIAMS. What is the difference, if I may ask the gentleman, between that and somebody's hearing you make a statement, and taking it down and verifying it by his affidavit, and coming into court and saying that is a verified statement of your statement, and having it accepted as evidence? It seems to me that the reply is that you must introduce the best evidence.

Mr. FOSTER of Vermont. This is the best evidence. You can not get the original. The law prohibits that. Under the regulations of the Treasury Department you can not get that original copy, that original list of these taxpayers. So, then, the law permits you to do the next best thing, and get the best evidence to be had; and the best evidence under the existing circumstances is a verified copy. Every lawyer knows that there is such a thing as a verified copy.

Mr. WILLIAMS. To be used against a man on trial for his life or his liberty in a criminal proceeding?

Mr. FOSTER of Vermont. Yes.

Mr. HUMPHREYS of Mississippi. Of course that would be evidence of the fact that the officer had performed the duty that the statute required of him. I did not know until now that it had been held in his State that this evidence was competent, but I am advised that it has been held in one or two States that the evidence the gentleman mentions is competent. But in at least nine States out of ten the courts have held that it is not competent, and, in my opinion, the courts held correctly when they held that it was not competent. Now, under the bill as I introduced it, if it becomes a law, it will simply require that when the internal-revenue collector issues a license, he shall make a duplicate and preserve that duplicate, and issue a certified copy of that, so that it can be used in the State courts; and no

court under heaven will ever say that that is not competent evidence.

Then we arrive at it without taking the officer away from his duty and without disturbing the records of his office by requiring him to take them with him when he leaves his office to go and testify in court. He simply gives a certified copy of the record, which can be carried into court, and that puts him on an equality with every other officer in this Government. As was decided in Aaron Burr's trial at Richmond, when John Marshall was sitting as a trial judge, there is no officer, from the President of the United States down to the lowest officer in the land, who is exempt from the process of the court. But now the collector of internal revenue is excused from this duty when he is called on to testify against a man who has violated the law against retail liquor selling, and as a rule the men who violate this law are the most contemptible and despicable characters in the community.

Mr. PALMER. I am in favor of the gentleman's bill, and I am going to vote for it when he gets it up, and I don't see why he can not get it up some day under a suspension of the rules; but the gentleman from Vermont [Mr. FOSTER] is right in regard to the common-law rule. You must have a certified copy from the officer who has it in charge or a verified copy by one who goes and sees it.

Mr. GAINES of Tennessee. But the officer in charge won't give it.

Mr. WILLIAMS. There is no duplicate copy in the internal-revenue office of this tax receipt which is issued; there is this list posted up. Even if your position were correct, you couldn't get a verified copy of the receipt; all you could get would be a verified copy of the fact that the man's name was on the list.

Mr. FOSTER of Vermont. The gentleman from Mississippi is wrong. The Treasury Department requires this collector to keep in his office not only a list of the taxpayers, but a list of the taxpayers with the amount of tax that is paid, and the purposes for which he paid it.

Mr. WILLIAMS. Not a copy of the receipt?

Mr. FOSTER of Vermont. No.

Mr. WILLIAMS. Well, that is the evidence that you have got to have, the receipt itself, to show that this man paid it. It is possible that the list is a misprint.

Mr. HUMPHREYS of Mississippi. Let me ask the gentleman from Vermont this question: What objection can there be to requiring the internal-revenue collector to give a copy of a receipt that he issues to John Smith or Richard Roe?

Mr. FOSTER of Vermont. I was not raising that question.

Mr. HUMPHREYS of Mississippi. Can you conceive any objection?

Mr. FOSTER of Vermont. The only objection is this, and it is the reason for this regulation of the Treasury Department: The Treasury Department, under Republican rule as under Democratic rule, and it has been in force under Democratic rule as well as Republican rule, has no desire to interfere with the criminal laws of any State.

Mr. HUMPHREYS of Mississippi. But it does do it.

Mr. FOSTER of Vermont. If the gentleman will let me finish. The Treasury Department has no desire to interfere with the criminal law of any State. But it says that this is a revenue provision entirely and the Treasury Department insists that the revenue laws of the National Government should not be used in executing the criminal laws of the several States.

Mr. WILLIAMS. The law is not used; it is only a copy of what took place under the law.

Mr. HUMPHREYS of Mississippi. The proper regulation of the liquor traffic, Mr. Chairman, is one of the most troublesome questions that ever vexed the mind of a legislator. It has been the subject of the most thoughtful, the most zealous, the most prayerful, and frequently the most fruitless efforts of the statesmen in our State legislatures. The traffic is one of the most fruitful sources of crime in this broad land, and the attempts to regulate it so as to minimize the danger to society have been almost infinite in their variety. We have in the different States high license and no license, prohibition and dispensary, local option and constitutional prohibition; but wherever we have the traffic, and however we have it, it furnishes the principal business for the police judge. It is none of our business, Mr. Chairman, which of these methods the several States may adopt; it is for them to determine in the exercise of what little police power they have left. It is our business, however, to see that no officer or agent of the United States Government interferes with or in any way obstructs the due administration of the State law, whatever that law may be.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I thank the House very much for the attention I have received. [Loud applause.]

Mr. FOSS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CRUMPACKER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the naval appropriation bill and had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. FORSTER, one of his secretaries.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 4983. An act granting an increase of pension to John M. Farquhar—to the Committee on Invalid Pensions.

S. 5891. An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee—to the Committee on Interstate and Foreign Commerce.

S. 5890. An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee—to the Committee on Interstate and Foreign Commerce.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 4739. An act granting an increase of pension to Benjamin F. Burgess;

S. 4688. An act granting an increase of pension to Noel J. Burgess;

S. 4582. An act granting an increase of pension to Seth H. Cooper;

S. 4576. An act granting an increase of pension to William Monks;

S. 4511. An act granting an increase of pension to William Hoaglin;

S. 4392. An act granting an increase of pension to Cornelia A. Mobley;

S. 4359. An act granting an increase of pension to Mary E. Lincoln;

S. 4231. An act granting an increase of pension to Owen Martin;

S. 4193. An act granting an increase of pension to Calvin D. Wilber;

S. 3883. An act granting an increase of pension to Ferdinand Hercher;

S. 4126. An act granting an increase of pension to Williard Farrington;

S. 4112. An act granting an increase of pension to Henry Swigart;

S. 4010. An act granting an increase of pension to Bridget Egan;

S. 3759. An act granting an increase of pension to Harry D. Miller;

S. 3765. An act granting an increase of pension to Charles R. Frost;

S. 3720. An act granting an increase of pension to Smith Vaughan;

S. 3655. An act granting an increase of pension to Mary A. Good;

S. 3555. An act granting a pension to Alice A. Fray;

S. 3551. An act granting an increase of pension to Solomon Jackson;

S. 3549. An act granting an increase of pension to Martha H. Ten Eyck;

S. 3468. An act granting an increase of pension to Myra R. Daniels;

S. 3454. An act granting an increase of pension to William Wilson;

S. 3415. An act granting an increase of pension to William Triplett;

S. 3308. An act granting a pension to Sarah Lovell;

S. 3273. An act granting an increase of pension to Abisha Risk;

S. 3272. An act granting an increase of pension to John Hirth;

S. 3230. An act granting an increase of pension to William C. Bourke;

S. 3178. An act granting an increase of pension to Daniel Shelly;
S. 4018. An act granting an increase of pension to Ebenezer Lusk;
S. 3130. An act granting an increase of pension to George B. Vallandigham;
S. 3119. An act granting an increase of pension to Francis A. Beranek;
S. 2985. An act granting an increase of pension to George W. Bodenhamer;
S. 5342. An act granting an increase of pension to May E. Johnson;
S. 5095. An act granting a pension to Jeremiah McKenzie;
S. 5192. An act granting a pension to John H. Stacy;
S. 5189. An act granting an increase of pension to Margaret F. Joyce;
S. 5186. An act granting an increase of pension to Robert Staplins;
S. 5173. An act granting an increase of pension to William S. Garrett;
S. 5146. An act granting a pension to Mary J. McLeod;
S. 5114. An act granting an increase of pension to Lizzie B. Cusick;
S. 5094. An act granting an increase of pension to Samuel F. Baublitz;
S. 5093. An act granting an increase of pension to Josiah F. Staubs;
S. 5091. An act granting an increase of pension to Sallie Tyrrell;
S. 5092. An act granting an increase of pension to Mary C. Feigley;
S. 5077. An act granting an increase of pension to Gabriel Cody;
S. 5055. An act granting an increase of pension to Melvin Grandy;
S. 4901. An act granting an increase of pension to Joshua M. Lounsberry;
S. 4763. An act granting an increase of pension to Harrison Randolph;
S. 4759. An act granting an increase of pension to Oliver M. Stone;
S. 4745. An act granting an increase of pension to Susan J. F. Joslyn;
S. 2959. An act granting an increase of pension to William R. Gallion;
S. 2886. An act granting an increase of pension to Martha Hoffman;
S. 2799. An act granting an increase of pension to Willis H. Watson;
S. 2767. An act granting a pension to Sarah S. Etue;
S. 2759. An act granting an increase of pension to William B. Mitchell;
S. 2021. An act granting a pension to Juliet K. Phillips;
S. 1818. An act granting a pension to Edward T. White;
S. 1913. An act granting a pension to Clara F. Leslie;
S. 1728. An act granting an increase of pension to Joseph H. Allen;
S. 1692. An act granting a pension to Ellen H. Swayne;
S. 4760. An act granting a pension to John B. Lee;
S. 5375. An act granting an increase of pension to Francis L. Porter;
S. 5366. An act granting an increase of pension to John Beatty;
S. 5355. An act granting an increase of pension to Annie M. Walker;
S. 5291. An act granting an increase of pension to Elijah A. Smith;
S. 5344. An act granting an increase of pension to Sophronia Roberts;
S. 5255. An act granting an increase of pension to John D. Culler;
S. 5219. An act granting an increase of pension to David N. Morland;
S. 5205. An act granting an increase of pension to John F. Alsup;
S. 1691. An act granting an increase of pension to Alice S. Shepard;
S. 1628. An act granting an increase of pension to Christian H. Goebel;
S. 1605. An act granting an increase of pension to Richard H. Lee;
S. 5455. An act granting a pension to Emily J. Alden;
S. 5517. An act granting an increase of pension to William H. H. Shaffer;
S. 1564. An act granting an increase of pension to Leander C. Reeve;
S. 5514. An act to amend section 4472 of the Revised Statutes, relating to carrying of dangerous articles on passenger steamers;
S. 5515. An act granting an increase of pension to Matilda C. Frizell;
S. 2977. An act granting an increase of pension to David B. Neafus;
S. 556. An act granting an increase of pension to William H. Egolf;
S. 591. An act granting a pension to William C. Banks;
S. 13. An act granting an increase of pension to Hautville A. Johnson;
S. 5453. An act granting an increase of pension to Jacob M. Peckle;
S. 5338. An act granting an increase of pension to David Buckner;
S. 5439. An act granting an increase of pension to George W. Dunlap;
S. 971. An act granting an increase of pension to William H. Hackney;
S. 918. An act granting an increase of pension to Edwin N. Baker;
S. 5337. An act granting an increase of pension to Samuel M. Tow;
S. 1514. An act granting an increase of pension to George W. Wicks;
S. 1260. An act granting an increase of pension to Frank Pugsley;
S. 1013. An act granting an increase of pension to William H. Odear; and
S. 834. An act granting an increase of pension to Lucien W. French.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:
H. R. 1565. An act for the relief of Theodore H. Bishop;
H. R. 1340. An act granting a pension to Robert Kennish;
H. R. 2796. An act granting a pension to Benjamin T. Odiorne;
H. R. 3333. An act granting a pension to William Simmons;
H. R. 4264. An act granting a pension to Frances E. Maloon;
H. R. 4669. An act granting a pension to Joseph E. Green;
H. R. 6949. An act granting a pension to Alice W. Powers;
H. R. 6985. An act granting a pension to Susan C. Smith;
H. R. 7232. An act granting a pension to Alba B. Bean;
H. R. 7737. An act granting a pension to William H. Winters;
H. R. 7844. An act granting a pension to Phoebe Keith;
H. R. 8475. An act granting a pension to John F. Tathem;
H. R. 8687. An act granting a pension to William I. Lusch;
H. R. 8820. An act granting a pension to Inez Talkington;
H. R. 9046. An act granting a pension to William Berry;
H. R. 9287. An act granting a pension to Eliza Byron;
H. R. 9441. An act granting a pension to Clara N. Scranton;
H. R. 9442. An act granting a pension to Dora C. Walter;
H. R. 9606. An act granting a pension to Martha Jewell;
H. R. 9993. An act granting a pension to George W. Warren;
H. R. 10408. An act granting a pension to Anna E. Middleton;
H. R. 10424. An act granting a pension to Emanuel S. Thompson;
H. R. 10775. An act granting a pension to Ellen S. Cushman;
H. R. 11565. An act granting a pension to Sarah A. Brinker;
H. R. 11654. An act granting a pension to Emma A. Smith;
H. R. 11703. An act granting a pension to Laura McNulta;
H. R. 11898. An act granting a pension to Lars F. Wadsten, alias Frederick Wadsten.
H. R. 11918. An act granting a pension to Mary A. Weigand;
H. R. 12099. An act granting a pension to Charlotte A. McCormick;
H. R. 12715. An act granting a pension to George B. Kirk;
H. R. 12803. An act granting a pension to Emma C. Waldron;
H. R. 13217. An act granting a pension to Joshua Barnes;
H. R. 13726. An act granting a pension to Sarah J. Manson;
H. R. 14677. An act granting a pension to Reuben R. Ballenger;
H. R. 15321. An act granting a pension to Charles Skaden, jr.;
H. R. 15431. An act granting a pension to Theresa Creiss;
H. R. 15569. An act granting a pension to Harriet A. Duvall;
H. R. 15895. An act granting a pension to Harry D. McFarland;
H. R. 16520. An act granting a pension to Edward Farrell;
H. R. 16582. An act granting a pension to Ellen T. Sivels;

H. R. 16930. An act granting a pension to Virginia A. Hilburn;
H. R. 16972. An act granting a pension to Harriet L. Morrison;
H. R. 17151. An act granting a pension to William T. Morgan;
H. R. 17273. An act granting a pension to Mary B. Watson;
H. R. 517. An act granting an increase of pension to Luke Waldron;
H. R. 531. An act granting an increase of pension to Ebenezer Rickett;
H. R. 601. An act granting an increase of pension to Isreal E. Munger;
H. R. 667. An act granting an increase of pension to George H. Gaskill;
H. R. 1018. An act granting an increase of pension to Silas Flournoy;
H. R. 1138. An act granting an increase of pension to Joseph S. Rice;
H. R. 1151. An act granting an increase of pension to Valentine Bartley;
H. R. 1245. An act granting an increase of pension to David Rankin;
H. R. 1375. An act granting an increase of pension to Silas Mosher;
H. R. 1567. An act granting an increase of pension to Edward Duffy;
H. R. 1734. An act granting an increase of pension to William H. Lee;
H. R. 1858. An act granting an increase of pension to James Jacobs;
H. R. 1893. An act granting an increase of pension to Henry C. Maxwell;
H. R. 1910. An act granting an increase of pension to Andrew H. Nichols;
H. R. 1953. An act granting an increase of pension to Susan S. Theall;
H. R. 2102. An act granting an increase of pension to Eugenie Tilburn;
H. R. 2173. An act granting an increase of pension to Thomas H. Padgett;
H. R. 2721. An act granting an increase of pension to Ashford R. Matheny;
H. R. 2731. An act granting an increase of pension to James M. Eddy;
H. R. 2778. An act granting an increase of pension to Patrick Mahoney;
H. R. 2794. An act granting an increase of pension to Richard E. Davis;
H. R. 2801. An act granting an increase of pension to Alexander M. Lowry;
H. R. 2852. An act granting an increase of pension to James Dayton;
H. R. 3347. An act granting an increase of pension to Orestes B. Wright;
H. R. 3419. An act granting an increase of pension to John Biddle;
H. R. 3430. An act granting an increase of pension to Peter M. Culins;
H. R. 3456. An act granting an increase of pension to David B. Ott;
H. R. 3689. An act granting an increase of pension to Charles W. Lyons;
H. R. 3738. An act granting an increase of pension to Daniel Boughman;
H. R. 3979. An act granting an increase of pension to Paul Stang;
H. R. 4230. An act granting an increase of pension to William H. Miles;
H. R. 4242. An act granting an increase of pension to Mary A. Foster;
H. R. 4294. An act granting an increase of pension to Annie R. E. Nesbitt;
H. R. 4350. An act granting an increase of pension to Joseph W. Vance;
H. R. 4679. An act granting an increase of pension to Franklin D. Clark;
H. R. 4763. An act granting an increase of pension to John C. Matheny;
H. R. 5044. An act granting an increase of pension to Hiram G. Hoke;
H. R. 5178. An act granting an increase of pension to Elijah Pantall;
H. R. 5274. An act granting an increase of pension to William T. Branam;
H. R. 5822. An act granting an increase of pension to Miner L. Braden;
H. R. 5853. An act granting an increase of pension to Quincy Corwin;
H. R. 5956. An act granting an increase of pension to Joseph H. Wagoner;
H. R. 6213. An act granting an increase of pension to Hiram Linn;
H. R. 6238. An act granting an increase of pension to Jesse Woods;
H. R. 6256. An act granting an increase of pension to Solomon Riddell;
H. R. 6450. An act granting an increase of pension to Nannie L. Schmitt;
H. R. 6452. An act granting an increase of pension to William H. Doherty;
H. R. 6864. An act granting an increase of pension to Henry Good;
H. R. 6919. An act granting an increase of pension to Joseph A. C. Curtis;
H. R. 7540. An act granting an increase of pension to William F. Griffith;
H. R. 7687. An act granting an increase of pension to Charles Hammond, alias Hiram W. Kirkpatrick;
H. R. 7720. An act granting an increase of pension to Stephen M. Sexton;
H. R. 7745. An act granting an increase of pension to Wheeler Lindenbower;
H. R. 7821. An act granting an increase of pension to Mathias Brady;
H. R. 7837. An act granting an increase of pension to Mary J. McKim;
H. R. 7902. An act granting an increase of pension to Eugene Orr, alias Charles Southard;
H. R. 7968. An act granting an increase of pension to Palmetto Dodson;
H. R. 8046. An act granting an increase of pension to James Thompson Brown;
H. R. 8157. An act granting an increase of pension to Milton H. Wayne;
H. R. 8277. An act granting an increase of pension to Samuel S. Garst;
H. R. 8290. An act granting an increase of pension to Lloyd D. Bennett;
H. R. 8518. An act granting an increase of pension to Samuel Meadows;
H. R. 8711. An act granting an increase of pension to James F. Howard;
H. R. 8778. An act granting an increase of pension to George Henderson;
H. R. 8780. An act granting an increase of pension to Abraham M. Barr;
H. R. 8948. An act granting an increase of pension to John W. Hammond;
H. R. 9257. An act granting an increase of pension to Nathaniel M. Stukes;
H. R. 9261. An act granting an increase of pension to William C. Herridge;
H. R. 9288. An act granting an increase of pension to Catherine E. Bragg;
H. R. 9415. An act granting an increase of pension to John E. Murphy;
H. R. 9417. An act granting an increase of pension to George A. Havel;
H. R. 9556. An act granting an increase of pension to Thomas C. Jackson;
H. R. 9578. An act granting an increase of pension to Alfred B. Menard;
H. R. 9601. An act granting an increase of pension to John B. Page;
H. R. 9627. An act granting an increase of pension to Daniel Craig;
H. R. 9791. An act granting an increase of pension to Amelia E. Grimsley;
H. R. 9829. An act granting an increase of pension to William J. Thompson;
H. R. 9833. An act granting an increase of pension to James C. Miller;
H. R. 10030. An act granting an increase of pension to Arby Frier;
H. R. 10161. An act granting an increase of pension to Benjamin R. South;
H. R. 10173. An act granting an increase of pension to John H. Lockhart;
H. R. 10250. An act granting an increase of pension to Ephraim Marble;
H. R. 10358. An act granting an increase of pension to Charles Dorin;

H. R. 10456. An act granting an increase of pension to William T. Edgemon;
H. R. 10473. An act granting an increase of pension to John B. Gerard;
H. R. 10494. An act granting an increase of pension to Hannah C. Reese;
H. R. 10580. An act granting an increase of pension to Samuel Fish;
H. R. 10591. An act granting an increase of pension to Sarah A. Scott;
H. R. 10686. An act granting an increase of pension to George W. Adams;
H. R. 10727. An act granting an increase of pension to Aquilla M. Hizar;
H. R. 10881. An act granting an increase of pension to Jerry Edwards;
H. R. 10924. An act granting an increase of pension to Thomas J. Sizer;
H. R. 11143. An act granting an increase of pension to Levi B. Noulton;
H. R. 11306. An act granting an increase of pension to John C. Parkinson;
H. R. 11348. An act granting an increase of pension to Cynthia Cordial, now Vernon;
H. R. 11361. An act granting an increase of pension to Thomas Hughes;
H. R. 11367. An act granting an increase of pension to Manning Abbott;
H. R. 11374. An act granting an increase of pension to Fanny L. Conine;
H. R. 11532. An act granting an increase of pension to Andrew J. Speed;
H. R. 11538. An act granting an increase of pension to Eli Duvall;
H. R. 11591. An act granting an increase of pension to John B. Hall;
H. R. 11593. An act granting an increase of pension to Evans Blake;
H. R. 11606. An act granting an increase of pension to Edmund W. Bixby;
H. R. 11692. An act granting an increase of pension to John P. Wishart;
H. R. 11824. An act granting an increase of pension to Jennie P. Starkins;
H. R. 11907. An act granting an increase of pension to August Danieldson;
H. R. 12017. An act granting an increase of pension to James B. Simkins;
H. R. 12019. An act granting an increase of pension to Henry Jacob Fox;
H. R. 12059. An act granting an increase of pension to Mildred W. Mitchell;
H. R. 12389. An act granting an increase of pension to Isaiah B. McDonald;
H. R. 12390. An act granting an increase of pension to John W. Raynor;
H. R. 12407. An act granting an increase of pension to Robert Bivans;
H. R. 12415. An act granting an increase of pension to Elizabeth Bodkin;
H. R. 12521. An act granting an increase of pension to Alice Eddy Potter;
H. R. 12526. An act granting an increase of pension to Solomon Johnson;
H. R. 12534. An act granting an increase of pension to Richard Reynolds;
H. R. 12556. An act granting an increase of pension to Joseph W. Coppage;
H. R. 12663. An act granting an increase of pension to Frederick Friebele;
H. R. 12755. An act granting an increase of pension to Nathaniel W. Plymate;
H. R. 12888. An act granting an increase of pension to Jacob Sannar;
H. R. 12996. An act granting an increase of pension to Eugene B. McDonald;
H. R. 13139. An act granting an increase of pension to William Walrod;
H. R. 13171. An act granting an increase of pension to Jonathan K. Porter;
H. R. 13345. An act granting an increase of pension to Frank Clendenin;
H. R. 13437. An act granting an increase of pension to Samuel R. Lowry;
H. R. 13445. An act granting an increase of pension to Thomas T. Blanchard;
H. R. 13504. An act granting an increase of pension to Elizabeth Thompson;
H. R. 13730. An act granting an increase of pension to Joseph Shroyer;
H. R. 13738. An act granting an increase of pension to Henry Hahn;
H. R. 13741. An act granting an increase of pension to George R. Scott;
H. R. 13823. An act granting an increase of pension to William Van Keuren;
H. R. 13840. An act granting an increase of pension to Absalom Shell;
H. R. 13862. An act granting an increase of pension to Luther S. Holly;
H. R. 13871. An act granting an increase of pension to William Delany;
H. R. 13881. An act granting an increase of pension to Amos Dyke;
H. R. 13928. An act granting an increase of pension to Harvey Foster;
H. R. 13961. An act granting an increase of pension to Julius Buxbaum;
H. R. 14001. An act granting an increase of pension to Nathan S. Ruddock;
H. R. 14116. An act granting an increase of pension to John P. Rains;
H. R. 14117. An act granting an increase of pension to William H. H. Fellows;
H. R. 14227. An act granting an increase of pension to Anna C. Bassford;
H. R. 14299. An act granting an increase of pension to Rose V. Mullin;
H. R. 14374. An act granting an increase of pension to Benjamin B. Cahoon;
H. R. 14442. An act granting an increase of pension to Esther M. Lowe;
H. R. 14498. An act granting an increase of pension to Eliza Davidson;
H. R. 14534. An act granting an increase of pension to Jasper N. Harrelson;
H. R. 14552. An act granting an increase of pension to Henry Davey;
H. R. 14553. An act granting an increase of pension to Jesse Lienallen;
H. R. 14566. An act granting an increase of pension to Robert E. McKiernan;
H. R. 14657. An act granting an increase of pension to David W. West;
H. R. 14688. An act granting an increase of pension to Robert Timmons;
H. R. 14698. An act granting an increase of pension to William F. Drake;
H. R. 14780. An act granting an increase of pension to John A. Royer;
H. R. 14782. An act granting an increase of pension to Michael Manahan;
H. R. 14853. An act granting an increase of pension to Helen C. Sanderson;
H. R. 14915. An act granting an increase of pension to Andrew W. Tracy;
H. R. 14989. An act granting an increase of pension to Arcatie E. Thompson;
H. R. 14990. An act granting an increase of pension to Lucius D. Whaley;
H. R. 14993. An act granting an increase of pension to Riley M. Smiley;
H. R. 15007. An act granting an increase of pension to Henry Hares;
H. R. 15011. An act granting an increase of pension to John Eldridge, jr.;
H. R. 15024. An act granting an increase of pension to Henry C. Keyser;
H. R. 15050. An act granting an increase of pension to William H. Near;
H. R. 15061. An act granting an increase of pension to Ethan Allen;
H. R. 15119. An act granting an increase of pension to Cornelius Westman;
H. R. 15216. An act granting an increase of pension to Truman C. Stevens;
H. R. 15240. An act granting an increase of pension to James W. Fowler;

H. R. 15256. An act granting an increase of pension to Benjamin F. Greer;
H. R. 15277. An act granting an increase of pension to George W. Pierce;
H. R. 15380. An act granting an increase of pension to Valentine Gunselman;
H. R. 15396. An act granting an increase of pension to John T. Jacobs;
H. R. 15415. An act granting an increase of pension to Ann R. Nelson;
H. R. 15484. An act granting an increase of pension to Robert Dick;
H. R. 15487. An act granting an increase of pension to Truman Aldrich;
H. R. 15548. An act granting an increase of pension to Jacob Ferber;
H. R. 15616. An act granting an increase of pension to Pleasant Calor;
H. R. 15621. An act granting an increase of pension to Caleb M. Tarter;
H. R. 15670. An act granting an increase of pension to Daniel E. Durgin;
H. R. 15683. An act granting an increase of pension to Thomas Brown;
H. R. 15701. An act granting an increase of pension to William Brown;
H. R. 15717. An act granting an increase of pension to Ebenezer A. Rice;
H. R. 15780. An act granting an increase of pension to Peter Cole;
H. R. 15794. An act granting an increase of pension to Samuel Pepper;
H. R. 15835. An act granting an increase of pension to George M. Thompson;
H. R. 15840. An act granting an increase of pension to Edgar B. Hughson;
H. R. 15863. An act granting an increase of pension to William Louther;
H. R. 15894. An act granting an increase of pension to Alma L. Wells;
H. R. 15928. An act granting an increase of pension to Herbert D. Ingersoll;
H. R. 15956. An act granting an increase of pension to Walter F. Bean;
H. R. 15982. An act granting an increase of pension to Henrietta W. Wilson;
H. R. 16023. An act granting an increase of pension to Sheldon B. Fargo;
H. R. 16024. An act granting an increase of pension to Katie B. Meister;
H. R. 16179. An act granting an increase of pension to William N. J. Burns;
H. R. 16182. An act granting an increase of pension to Samuel F. Williams;
H. R. 16190. An act granting an increase of pension to James T. Caskey;
H. R. 16210. An act granting an increase of pension to Abraham G. Long;
H. R. 16250. An act granting an increase of pension to Augustus J. Morey;
H. R. 16266. An act granting an increase of pension to Margaret A. Rucker;
H. R. 16296. An act granting an increase of pension to Henry C. Coffin;
H. R. 16334. An act granting an increase of pension to Enos Day;
H. R. 16376. An act granting an increase of pension to Joseph Muncher;
H. R. 16428. An act granting an increase of pension to Edwin Hicks;
H. R. 16433. An act granting an increase of pension to Marius S. Cooley;
H. R. 16437. An act granting an increase of pension to Samuel H. Frazier;
H. R. 16442. An act granting an increase of pension to John A. Powell;
H. R. 16445. An act granting an increase of pension to Henry H. Sibley;
H. R. 16454. An act granting an increase of pension to Samuel E. Carlton;
H. R. 16455. An act granting an increase of pension to John Long;
H. R. 16504. An act granting an increase of pension to Thomas W. Barnum;
H. R. 16514. An act granting an increase of pension to John W. Barton;
H. R. 16523. An act granting an increase of pension to Charles P. Hopkins;
H. R. 16578. An act granting an increase of pension to Edward Lilley;
H. R. 16583. An act granting an increase of pension to David R. Walden;
H. R. 16650. An act granting an increase of pension to Robert B. Williby;
H. R. 16985. An act granting an increase of pension to Gilson Lawrence;
H. R. 17028. An act granting an increase of pension to Lorenzo D. Hartwell;
H. R. 17194. An act granting an increase of pension to Jennie White;
H. R. 17235. An act granting an increase of pension to Martha Howard;
H. R. 17274. An act granting an increase of pension to Andrew J. Mosier;
H. R. 17589. An act granting an increase of pension to Sidney A. Lawrence;
H. R. 17608. An act granting an increase of pension to Sidney S. Brewerton;
H. R. 18709. An act making additional appropriations for the public service on account of earthquake and attending conflagration on the Pacific coast;
H. R. 8997. An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes; and
H. R. 11796. An act for the diversion of water from the Sacramento River, in the State of California, for irrigation purposes.

ENROLLED BILL AND JOINT RESOLUTIONS.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill and joint resolutions of the following titles; when the Speaker signed the same:

H. J. Res. 149. Joint resolution extending the thanks of Congress to Gen. Horace Porter;
H. J. Res. 145. Joint resolution for appointment of members of Board of Managers of the National Home for Disabled Volunteer Soldiers; and
H. R. 15334. An act to authorize the construction of dams and power stations on the Coosa River at Lock 2, Alabama.

THE SAN FRANCISCO EARTHQUAKE.

The SPEAKER laid before the House the following message from the President of the United States; which was read, referred to the Committee on Foreign Affairs, and ordered to be printed.

[For message, see Senate proceedings of this day.]

Mr. FOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 15 minutes p. m.) the House adjourned until to-morrow, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Postmaster-General submitting an estimate of appropriation for file boxes and cases for appointment division—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. McGUIRE, from the Committee on Territories, to which was referred the bill of the House (H. R. 11787) ratifying and approving an act to appropriate money for the purpose of building additional buildings for the Northwestern Normal School at Alva, in Oklahoma Territory, passed by the legislative assembly of Oklahoma Territory, and approved the 15th day of March, 1905, reported the same without amendment, accompanied by a report (No. 3711); which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the

bill of the House (H. R. 17186) granting to the Territory of Oklahoma, for the use and benefit of the University Preparatory School of the Territory of Oklahoma, section 33, in township No. 26 north of range No. 1 west of the Indian meridian, in Kay County, Oklahoma Territory, reported the same without amendment, accompanied by a report (No. 3712); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. REEDER, from the Committee on Irrigation of Arid Lands, to which was referred the bill of the House (H. R. 18536) providing for the subdivision of lands entered under the reclamation act, and for other purposes, reported the same with amendment, accompanied by a report (No. 3717); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HULL, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 14892) making an appropriation for completing the construction of the road to the Barrancas military post, by way of the national cemetery and the navy-yard on the naval reservation near Pensacola, Fla., reported the same with amendment, accompanied by a report (No. 3718); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. McGUIRE, from the Committee on the Territories, to which was referred the bill of the House (H. R. 17431) granting to the regents of the University of Oklahoma section No. 36, in township No. 9 north of range No. 3 west of the Indian meridian, in Cleveland County, Oklahoma Territory, reported the same without amendment, accompanied by a report (No. 3713); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18850) donating lands in Oklahoma Territory for educational purposes, reported the same without amendment, accompanied by a report (No. 3714); which said bill and report were referred to the Private Calendar.

Mr. HOWELL of Utah, from the Committee on Claims, to which was referred the bill of the House (H. R. 18134) for the relief of the Compañia de los Ferrocarriles de Puerto Rico, reported the same with amendment, accompanied by a report (No. 3715); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk and laid on the table as follows:

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 1690) for the relief of Theodore A. Northop, reported the same adversely, accompanied by a report (No. 3716); which said bill and report were ordered laid on the table.

Mr. YOUNG, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 3156) to grant an honorable discharge from the military service to Robert C. Gregg, reported the same adversely, accompanied by a report (No. 3719); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. GARDNER of New Jersey: A bill (H. R. 18918) to provide for the completion of the public building in Atlantic City, N. J.—to the Committee on Public Buildings and Grounds.

By Mr. LEWIS: A bill (H. R. 18919) to increase salaries of rural free-delivery carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. McGUIRE: A bill (H. R. 18920) to authorize the Wichita Mountain and Orient Railway Company to construct and operate a railway through the Fort Sill Military Reservation, and for other purposes—to the Committee on Military Affairs.

By Mr. ESCH: A resolution (H. Res. 417) instructing the Committee on the Judiciary to report to the House a bill concerning insurance legislation—to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ANDRUS: A bill (H. R. 18921) granting a pension to Mary Elizabeth McCann—to the Committee on Invalid Pensions.

By Mr. BATES: A bill (H. R. 18922) granting an increase of pension to Henry H. Niles—to the Committee on Invalid Pensions.

By Mr. BRANTLEY: A bill (H. R. 18923) granting an increase of pension to Edward Shnell—to the Committe on Invalid Pensions.

By Mr. COOPER of Wisconsin: A bill (H. R. 18924) for the relief of George M. Esterly—to the Committee on Claims.

By Mr. CURTIS: A bill (H. R. 18925) for the relief of John H. Davison, alias Henry Bingham—to the Committee on Military Affairs.

Also, a bill (H. R. 18926) granting an increase of pension to William Irelan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18927) granting an increase of pension to Mrs. J. Frank Wyman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18928) granting an increase of pension to Mary J. F. Day—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18929) to correct the record of James Clingen—to the Committee on Military Affairs.

By Mr. GILLESPIE: A bill (H. R. 18930) granting an increase of pension to Eliza J. Mays—to the Committee on Pensions.

By Mr. GUDGER: A bill (H. R. 18931) granting an increase of pension to Malinda Wike—to the Committee on Invalid Pensions.

By Mr. HAY: A bill (H. R. 18932) for the relief of the St. Paul Reformed Church, of Woodstock, Va.—to the Committee on War Claims.

By Mr. HUFF: A bill (H. R. 18933) granting an increase of pension to Andrew C. Gibson—to the Committee on Invalid Pensions.

By Mr. JONES of Washington: A bill (H. R. 18934) for the relief of George Anderson, of Conconully, State of Washington—to the Committee on the Public Lands.

By Mr. LEVER: A bill (H. R. 18935) granting an increase of pension to Mima A. Boswell—to the Committee on Pensions.

By Mr. LITTLE: A bill (H. R. 18936) granting a pension to J. O. Grant—to the Committee on Pensions.

By Mr. McKINLEY of Illinois: A bill (H. R. 18937) granting an increase of pension to William K. Turner—to the Committee on Invalid Pensions.

By Mr. McGUIRE: A bill (H. R. 18938) for the relief of Joseph B. Tucker, late private, Company H, Second Arkansas United States Cavalry, for depredations committed by Indians while he was in the United States Army—to the Committee on War Claims.

Also, a bill (H. R. 18939) for the relief of Sallie E. Barnes, widow of Joseph Barnes, late of Gilmore, Choctaw Nation, Ind. T.—to the Committee on War Claims.

Also, a bill (H. R. 18940) granting a pension to Rice S. McCubbin—to the Committee on Pensions.

Also, a bill (H. R. 18941) granting a pension to Benjamin S. Musser—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18942) granting a pension to William Pouder—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18943) granting an increase of pension to Samuel Emrick—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18944) granting an increase of pension to William Cameron—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18945) granting an increase of pension to William J. P. De Lesdernier—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18946) granting an increase of pension to Frank Marshall—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18947) granting an increase of pension to Roger A. Sprague—to the Committee on Invalid Pensions.

By Mr. MAHON: A bill (H. R. 18948) granting a pension to John D. Baker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18949) granting an increase of pension to William Gilbert—to the Committee on Invalid Pensions.

By Mr. MUDD: A bill (H. R. 18950) granting a pension to Andrea P. Caldwell—to the Committee on Invalid Pensions.

By Mr. PAYNE: A bill (H. R. 18951) to correct the military record of Charles Koester—to the Committee on Military Affairs.

By Mr. REEDER: A bill (H. R. 18952) granting a pension to Lydia A. Graham—to the Committee on Invalid Pensions.

By Mr. SHARTEL: A bill (H. R. 18953) for the relief of Joseph Kercher, sr., and others—to the Committee on War Claims.

By Mr. TAYLOR of Ohio: A bill (H. R. 18954) granting an increase of pension to John E. Minnick—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18955) granting an increase of pension to Jasper Smith—to the Committee on Invalid Pensions.

By Mr. WANGER: A bill (H. R. 18956) granting an increase of pension to Joseph Scattergood—to the Committee on Invalid Pensions.

By Mr. WELBORN: A bill (H. R. 18957) for the relief of George W. Sedwick—to the Committee on War Claims.

Also, a bill (H. R. 18958) granting an increase of pension to Robertson S. Maberry—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: A bill (H. R. 18959) granting an increase of pension to Albert G. Packer—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 4292) granting a pension to George W. Kelly—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18601) granting an increase of pension to Edward A. Barnes—Committee on Invalid Pensions discharged, and referred to Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Petition of 200 citizens of New Brighton, Pa., against liquor selling in Government buildings—to the Committee on Alcoholic Liquor Traffic.

Also, petition of the Presbyterian Church of Ellwood City, Pa., for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

Also, petition of 200 citizens of New Brighton, Pa., for Sunday closing of the Jamestown exposition—to the Committee on Industrial Arts and Expositions.

By Mr. BARCHFELD: Resolution of American Federation of Labor, submitting a list of grievances of labor organizations—to the Committee on Labor.

Also, petition of E. B. Spaulding, for the adoption by Government of steel mail cars—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Society for Political Study, of New York City, for bills S. 50 and H. R. 4462 (the child-labor bills)—to the Committee on the District of Columbia.

Also, resolution of the Tenth Pennsylvania Infantry, relative and favorable to House bill by Hon. ROBERT W. BONYNGE, granting medals to soldiers and officers of the Spanish war who served in the Philippines after time of enlistment had expired—to the Committee on Military Affairs.

Also, petition of A. O. Fording, for the Burton bill for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the Western Pennsylvania Branch of the Consumers' League, for bills S. 50 and H. R. 4462 (child labor in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Andra C. Pool—to the Committee on Pensions.

By Mr. BENNETT of Kentucky: Paper to accompany bill for relief of Capt. W. S. Adams—to the Committee on Claims.

By Mr. BRANTLEY: Paper to accompany bill for relief of Edward Shuell—to the Committee on Invalid Pensions.

By Mr. BUCKMAN: Paper to accompany bill for relief of Martin A. Luther—to the Committee on Pensions.

By Mr. BURKE of Pennsylvania: Petition of the American Federation of Labor, submitting a list of grievances of labor organizations—to the Committee on Labor.

Also, paper to accompany bill for relief of Col. John Ewing—to the Committee on Invalid Pensions.

Also, petition of A. O. Fording, for the Burton bill for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. BUTLER of Pennsylvania: Petition of the First Presbyterian Church of Westchester, Pa., representing 400 persons, for an amendment to the Constitution prohibiting polygamy—to the Committee on the Judiciary.

By Mr. COOPER of Pennsylvania: Petition of the Woman's Presbyterian Home and Foreign Mission Society, for a constitutional amendment abolishing polygamy—to the Committee on the Judiciary.

By Mr. COUSINS: Petition of the Twentieth Century Club of Marshalltown, Iowa, for forest reservations in the White Mountains—to the Committee on Agriculture.

Also, petition of the Central Park Presbyterian Church and the First Presbyterian Church, of State Center, Iowa, for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

By Mr. DARRAGH: Petition of citizens of Clare County, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Ashley, Mich., against bill S. 529 (the ship-subsidy bill)—to the Committee on the Merchant Marine and Fisheries.

Also, petition of citizens of Torch Lake Township, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Detroit, Mich., for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Big Rapids, Mich., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. DICKSON of Illinois: Petition of the General Federation of Women's Clubs, and Mrs. Julia G. Remann, president of Home Study Club, for an appropriation to investigate the industrial condition of women in the United States—to the Committee on Appropriations.

By Mr. DUNWELL: Petition of the United Commercial Travelers of America, against bill H. R. 4549, for a consolidation of third and fourth class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Advisory Committee of One Hundred of the Borough of Brooklyn, for battle-ship construction at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

By Mr. ELLIS: Paper to accompany bill for relief of Joseph Clark—to the Committee on Military Affairs.

By Mr. FITZGERALD: Petition of the Broadway Board of Trade, of Brooklyn, N. Y., favoring battle-ship construction at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

By Mr. GILLETT of Massachusetts: Petition of the president of the Chicopee Fall (Mass.) Woman's Club, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. GOULDEN: Petition of members of St. Luke's Council, No. 438, Knights of Columbus, for a memorial of Christopher Columbus (bill H. R. 13304)—to the Committee on the Library.

By Mr. GRAHAM: Petition of K. Nerdlin, for the Benton bill (H. R. 18024) for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of A. O. Fording, for the Burton bill for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the Society for Political Study, of New York City, for bills S. 50 and H. R. 4462 (the child-labor bills)—to the Committee on the District of Columbia.

Also, resolution of the American Federation of Labor, submitting a list of grievances of labor organizations—to the Committee on Labor.

By Mr. HENRY of Connecticut: Petition of citizens of East Hartford, Conn., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. HUFF: Paper to accompany bills for relief of Jacob Lybarger and Andrew C. Gibson—to the Committee on Invalid Pensions.

By Mr. JONES of Washington: Petition of citizens of Cowlitz County, Wash., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LEVER: Paper to accompany bill for relief of Henrietta G. Carter—to the Committee on Pensions.

By Mr. LINDSAY: Petition of J. H. Lane & Co., for the Burton bill (H. R. 18024) for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, petition of the Advisory Committee of One Hundred of the Borough of Brooklyn, for construction of more battle ships at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

Also, petition of the United Commercial Travelers of America, against bill H. R. 4549, relative to the consolidation of third and fourth-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. MAHON: Paper to accompany bill for relief of William Gilbert—to the Committee on Invalid Pensions.

By Mr. RYAN: Petition of Buffalo Council, No. 50, Junior Order United American Mechanics, for restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. SMITH of Maryland: Petition of A. Hallie Creighton and 47 other citizens, of Fishing Creek, Md.; Washington Camp, No. 4, of Templeville, Md.; Washington Camp, No. 34, of Chestertown, Md., and Washington Camp, No. 31, of Delmar, Del., Patriotic Sons of America, and Chestertown Council, No. 177, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. SPARKMAN: Petition of citizens of St. Petersburg and Plant City, Fla., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. STERLING: Paper to accompany bill for relief of John H. Sprouse—to the Committee on Invalid Pensions.

By Mr. SULLIVAN of New York: Petition of the Delaware Society, of New York, for naming a battle ship *Delaware*—to the Committee on Naval Affairs.

By Mr. WANGER: Petition of the Huntingdon Valley Presbyterian Church, 160 members, for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

By Mr. WILLIAMS: Paper to accompany bill for relief of the estate of Tillman Loggin—to the Committee on War Claims.

By Mr. WOOD of New Jersey: Petition of the Society for Political Study, of New York City, for the child-labor law—to the Committee on the District of Columbia.

SENATE.

FRIDAY, *May 4, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the following bills:

H. R. 8226. An act granting an increase of pension to Laura B. Ihrie;

H. R. 10251. An act granting an increase of pension to Sarah M. E. Hinman;

H. R. 11635. An act granting an increase of pension to Jeremiah Lunsford;

H. R. 15397. An act granting an increase of pension to Edward Gillespie;

H. R. 15687. An act granting an increase of pension to William F. M. Rice;

H. R. 15907. An act granting an increase of pension to Lewis De Laittre;

H. R. 16215. An act granting an increase of pension to Mary Dagenfield; and

H. R. 16521. An act directing the Secretary of the Interior to sell and convey a certain parcel of land to Johnson County, Wyo.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the Vice-President:

S. 13. An act granting an increase of pension to Hautville A. Johnson;

S. 556. An act granting an increase of pension to William H. Egolf;

S. 591. An act granting a pension to William C. Banks;

S. 834. An act granting an increase of pension to Lucian W. French;

S. 918. An act granting an increase of pension to Edwin N. Baker;

S. 971. An act granting an increase of pension to William H. Hackney;

S. 1013. An act granting an increase of pension to William H. Odear;

S. 1260. An act granting an increase of pension to Frank Pugsley;

S. 1514. An act granting an increase of pension to George W. Wicks;

S. 1564. An act granting an increase of pension to Leander C. Reeve;

S. 1605. An act granting an increase of pension to Richard H. Lee;

S. 1628. An act granting an increase of pension to Christian H. Goebel;

S. 1691. An act granting an increase of pension to Alice S. Shepard;

S. 1692. An act granting a pension to Ellen H. Swayne;

S. 1728. An act granting an increase of pension to Joseph H. Allen;

S. 1818. An act granting a pension to Edward T. White;

S. 1913. An act granting a pension to Clara F. Leslie;

S. 2021. An act granting a pension to Juliet K. Phillips;

S. 2759. An act granting an increase of pension to William B. Mitchell;

S. 2767. An act granting a pension to Sarah S. Etue;

S. 2799. An act granting an increase of pension to Willis H. Watson;

S. 2886. An act granting an increase of pension to Martha Hoffman;

S. 2959. An act granting an increase of pension to William R. Galion;

S. 2977. An act granting an increase of pension to David B. Neafus;

S. 2985. An act granting an increase of pension to George W. Bodenhamer;

S. 3119. An act granting an increase of pension to Francis A. Beranek;

S. 3130. An act granting an increase of pension to George B. Vallandigham;

S. 3178. An act granting an increase of pension to Daniel Shelly;

S. 3230. An act granting an increase of pension to William C. Bourke;

S. 3272. An act granting an increase of pension to John Hirth;

S. 3273. An act granting an increase of pension to Abisha Rick;

S. 3308. An act granting a pension to Sarah Lovell;

S. 3415. An act granting an increase of pension to William Triplett;

S. 3454. An act granting an increase of pension to William Wilson;

S. 3468. An act granting an increase of pension to Myra R. Daniels;

S. 3549. An act granting an increase of pension to Martha H. Ten Eyck;

S. 3551. An act granting an increase of pension to Solomon Jackson;

S. 3555. An act granting a pension to Alice A. Fray;

S. 3655. An act granting an increase of pension to Mary A. Good;

S. 3720. An act granting an increase of pension to Smith Vaughan;

S. 3759. An act granting an increase of pension to Henry D. Miller;

S. 3765. An act granting an increase of pension to Charles R. Frost;

S. 3883. An act granting an increase of pension to Ferdinand Hercher;

S. 4010. An act granting an increase of pension to Bridget Egan;

S. 4018. An act granting an increase of pension to Ebenezer Lusk;

S. 4112. An act granting an increase of pension to Henry Swigart;

S. 4126. An act granting an increase of pension to Willard Farington;

S. 4193. An act granting an increase of pension to Calvin D. Wilber;

S. 4231. An act granting an increase of pension to Owen Martin;

S. 4359. An act granting an increase of pension to Mary E. Lincoln;

S. 4392. An act granting an increase of pension to Cornelia A. Mobley;

S. 4511. An act granting an increase of pension to William Hoaglin;

S. 4576. An act granting an increase of pension to William Monks;

S. 4582. An act granting an increase of pension to Seth H. Cooper;

S. 4688. An act granting an increase of pension to Noel J. Burgess;

S. 4739. An act granting an increase of pension to Benjamin F. Burgess;

S. 4745. An act granting an increase of pension to Susan J. F. Joslyn;